

**Village of Woodbury  
Planning Board Meeting  
May 3, 2023**

Minutes of the Planning Board Meeting held on May 3, 2023, at 7:30 PM.

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

Village of Woodbury Planning Board Consultants:  
Kelly Naughton, Attorney  
Jim Moran, Engineer  
Philip Grealy, Traffic Consultant

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. **Woodbury Townhouses** - Review and discuss revised plans and materials submitted for Site Plan Special Permit, ARB, and Water Protection Overlay of the proposed 12-unit Townhouse. Said property is located at 6, 8, and 10 Falkirk Avenue in Central Valley and is known on the Village of Woodbury Tax Maps as Section 231 Block 3 Lots 6.1, 6.2, and 7.

Present Engineer Michael Morgante

Engineer Morgante gave a quick overview since their last appearance before the Board and consultants. He then proceeded to address the comments from the consultants and the Board, referencing items on the plans. He continued to say that the Applicant acquired the adjacent property to have more space, which was noted on the plans. This was done to gain more land and pull some of this project outside the water quality protection overlay district. Engineer Morgante highlighted the 50-ft riparian zone and the 100-ft riparian buffer for this meeting. He mentioned speaking to the former Building Inspector and how informative their conversations have been. It has been challenging. Due to some findings, they have come up with limited disturbances and Engineer Morgante went through a lengthy discussion and expressed some ideas for enhancing the buffer. The Chairman asked if the 3-story building is still being proposed. Engineer Morgante said he'd have to look into it but confirmed there are no other 3-story buildings. Engineer Morgante continued to go over the plans and their disturbances.

Chairman Gerver added that the reason the Applicant is facing difficulties is due to the Applicant choosing to go with intense use. He continued to say that in the previous submission, the Applicant was out of the 50-ft and 100-ft riparian zone that was approved, with the current project the Applicant is well into the 50-ft and the fill is considerably up as well. The Applicant chose to go with this intense use, adding additional units, units that are down to a thousand square feet. The Chairman noted the comparison with the original approved plans. The Applicant is trying to get as much on the property. He continued expressing his personal opinion which was the 3-story does not fit in that neighborhood. The height alone represents an issue. Placing a dumpster in the riparian zone goes against the whole water quality protection overlay which protects pollutants from getting into the water sources. In the original plan, the dumpsters were not there. The Chairman believes the Applicant should scale back based on the impacts. The Chairman gave examples of what the area turns into during a storm/flooding. He recalled stories told to him by residents during the storm Irene. Engineer Morgante said they can work with the Village on the elevation issue.

Attorney Naughton brought attention to the response from the Applicant regarding the Full Environmental Assessment Form (FEAF). The answer to the very last page should have been marked "yes" instead there was a no, the reason being the Applicant needs variances which are pending before the Zoning Board of Appeals (ZBA). She continued to go over the form and noted the ones that were incorrectly answered. She also noted and went over the short Environmental Assessment Form (EAF) that was not addressed. The Board will not be able to come to a determination this evening until the client makes their modifications and resubmits. Engineer Morgante asked that the Board advise the Applicant on how to proceed.

Engineer Jim Moran's reference to the H2M memo dated April 28, 2023, and began to go over comments.

### *H2M Memo:*

*Review of Submitted Materials – The following are our comments on materials submitted, some comments are repeated from our prior review where they remain relevant.*

*1. Zoning – (Informational) The Applicant proposes development on 3-lots located in the Hamlet Business (HB) Zone. The use as townhouses, is consistent with a permitted special permit use with site plan approval in the HB zone (SP Use #15).*

*a. Use – (Informational) Your Zoning allows dwelling units containing no more than two (2) bedrooms for this special permit use in the HB District. Plan is complying.*

*b. Bulk –*

*i. Lot Area/Density – Zoning requires 6,000-SF of lot area for each unit. Accordingly, 12-units requires 72,000-SF, the applicant's property is 59,045-SF and non-complying. Variance.*

*ii. Other – The setback, coverage, and lot width criteria for this Special Permit Use are undefined in the Code (§310-7 (HB)). In 2017, associated with the previous (now expired) application you received an opinion from the Building Inspector indicating the requirements of the R-0.25A were applicable to the Use. The applicant lists the R-0.25A requirements in their bulk table as appropriate; With the exception of the required lot area for the density proposed, the plan appears to be complying with required bulk criteria.*

*c. Parking – The Code (§310-40.A.) requirements for parking for residential units are two spaces per unit. The applicant proposes 12-units and 24 spaces and appears to be complying for number of spaces. However, the Code (§310-40.E.) also restricts off-street parking in the front yard of any zoning district. The applicant is requesting referral for a variance from the ZBA on this issue. Variance.*

*d. HB Zone – The applicant previously confirmed compliance with the Code (§310-22) requirements for performance standards in the HB Zone. (Informational)*

*2. Site Plan – The Planning Board is authorized under §310-45; Article VIII of the Village Zoning Code to review and act on site plans and special permits. The Code requires [§310-45.C.(1)(d)] a site plan be submitted for any application for a special permit. The Code further defines the objectives and design requirements of a site plan with specific site plan requirements under §310-45.I. The applicant has submitted a plan for you to consider their proposal, additional details shall be provided as the plan progresses. At the appropriate time, the applicant should review the requirements of the Code and identify those areas where they are requesting relief. If no relief is requested, the site plan is expected to comply with the requirements of the Code. The applicant notes at this time, no relief is requested.*

*We will refrain from detailed comments on the site plan until the threshold issues are resolved. The following are noted for the benefit of the applicant as the application progresses.*

*a. Utilities –*

*i. General – Due to proximity to the floodplain and adjacent water bodies, the applicant should ensure all facilities are designed in consideration of buoyancy and water tightness.*

*ii. General Water/Sewer – The applicant proposes connection to municipal water and sewer. The Village is currently under moratorium for water supply and this application is subject to those restrictions. The capacity of both systems to support the application should be confirmed. If the connections are approved, they will need to comply with the requirements of the Water/Sewer Administrator.*

*With respect to the Projected Water and Sewer Demand form submitted, we take no exception to the calculations provided. Nonetheless, we will wait to have this form executed until detailed plans are submitted and moratorium resolved.*

*iii. Sewer – Particular attention for sewer service for this development should be given to ensure water tightness of all facilities constructed. With respect to sewer, the applicant should review with the Sewer Administrator whether the service connections should be combined to a single manhole prior to connection to Village facilities. Consideration of OCSD standards for Cut-InPlace manhole versus Doghouse Manhole should be made with input from the Sewer Department.*

*iv. Water – Applicant proposes replacement of the 4-inch water main with new 8-inch main along Falkirk Avenue. Details of the proposed connections, valves, curbstops, etc. should be provided at the appropriate time. Further, road restoration details and plan showing limits of the same required will be required at the appropriate time.*

*v. Stormwater – The applicant's EAF indicates only 0.75-acres of disturbance is proposed. This does not typically rise to the threshold of requiring the preparation of a SWPPP. However, your Code (§310-31.4.G(1)(c)) provisions for WQPO allows you to require this document if determined appropriate. At a prior meeting you considered this and requested a SWPPP based on the presence of floodplain, Woodbury Creek, and wetlands on or adjacent to the site. The applicant shows a potential stormwater management facility on their plan, the SWPPP will support the design calculations of this facility to meet water quality volume and runoff reduction and remains to be provided. We note the applicant proposes 8-inch HDPE drainage pipe, we typically do not recommend less than 15-inch, applicant to revise.*

*b. Grading/Cut & Fill – A cut and fill analysis should be provided by the applicant; The plans appear to indicate 16 CY of fill required in the riparian zone and 392 CY of fill required in the buffer zone. The applicant should confirm the fill required for the site and/or within the floodplain (previously 1,188-CY) and 100-ft adjacent area for wetlands. The recent narrative indicates a net fill of 258.71 -CY is needed; applicant should confirm the difference in fill volumes. This issue is*

particularly important related to the floodplain and adjacent waterbodies. Fill within the floodplain is relevant for the applicant to ultimately demonstrate a no-rise condition post development, the applicant will need to address this.

The net disposition of soils is relevant for you to consider impacts during construction including erosion and sedimentation to nearby waterbodies (managed through an Erosion & Sediment control plan), truck trips for disposition of soils and potential impacts to traffic and roadways, all of which can be managed with future detail from the applicant.

c. Lighting – (Repeated) A lighting plan should be provided at the appropriate time. The plan should confirm footcandles at property lines are limited to 0.1-fc. Additionally, light fixtures should be nonglare, have internal shielding and comply with IDA, LEED, or Green Globe criteria for Nighttime Friendly or Dark Sky Lighting.

d. Landscaping – At the appropriate time the applicant should provide a landscaping plan and confirm compliance with your Code (§310-27) requirements for screening and landscaping in parking areas. Additionally, the applicant will be required to comply with the Code (§310-27.C.(3)) requirements for landscaped strip in front yard at least 10-ft deep in the HB zone.

e. Traffic – (Repeated) We defer to your traffic consultant for comments on the same.

3. Water Quality Protection Overlay (WQPO) – The Code (§310-31.4) standards for the WQPO are discussed below where relevant. The following should be considered with input from the applicant and advice from Counsel as the application progresses.

a. Mapping – The applicant’s plan shows: Woodbury Creek, wetland areas, and a 50- and 100-ft buffer from the creek. The limits of the surface water features should be confirmed and certified accurate via survey. The applicant previously advised a certified survey will be provided soon; this remains to be provided.

b. Prohibited Activities Throughout the Overlay District –

i. Fertilizers: (Informational) The Code (§310-31.4.E.(1)(b)) prohibits outdoor storage of any fertilizers, except in protective structures approved by the Building Inspector. The Code (§310-31.4.E.(2)) further requires no fertilizers may be applied in the riparian zone. The applicant’s plan prohibits application of fertilizers within the riparian zone. Our comments on this are resolved.

ii. Snow Removal/Salt Application: The applicant lists certain criteria of the WQPO (§310- 31.4.E.(5)) associated with the snow removal and salt storage on the plan. We recommend the applicant confirm whether bulk salt storage is proposed and whether snow storage onsite is adequate by showing a location for the same on the plan.

c. Riparian Zone – The Code (§310-31.4.F(1)) requires a 50-ft undisturbed riparian zone around regulated water bodies.

Although the applicant relocated Buildings 7, 8, and 9 outside of the riparian zone, disturbance to this area is required for construction of a portion of paved parking and refuse area. The restrictions of the riparian zone include no vegetation removal and no land disturbance except when the following is considered and a finding made by the Board (§310-31.4.F(2)(b)[5]):

*When the Planning Board has jurisdiction for review and approval of a project in the riparian zone for streams and waterbodies, the Planning Board must determine, after opportunity for public hearing, that either there is no practical alternative to realize a compelling need of the community related to health, safety and welfare of persons and property therein, which need outweighs the loss of protection to the water supply; and such land disturbance is necessary to avoid the likelihood that substantially all uses for which the property is zoned and suitable are precluded, so as to deny the owner all economically beneficial or productive use of the property, akin to a regulatory taking of the property. In its determination, the Planning Board shall consider whether the applicant has minimized proposed disturbance to the areas closest to the affected water body; the proposed use is compatible with adjacent uses; the impacts to the affected water body as a result of the proposed use is as benign as that of adjacent uses; the applicant has demonstrated there are no reasonable alternatives to the proposed development; and the proposed improvements minimize and mitigate potential impacts.*

As noted in the quoted criteria, the Board may not make a finding on this issue until after an opportunity for public comment. The applicant notes the area of the riparian zone encompasses 36.4% of the total lot area; the applicant should quantify the disturbance required for features noted above in addition to the 16-CY of fill required. We recommend the Planning Board consider with the applicant opportunities to eliminate construction within the 50-ft riparian zone including reduction in intensity of the development and relocating the refuse area and parking. For example, the westernmost parking stall near Building 7 may be located south of the parking stalls located near Building 6 and a refuse area located approximately in its stead. We recommend the applicant consider all feasible alternatives for presentation to the Board.

d. Buffer Area: The Code (§310-31.4.G) requires a regulated buffer area 100-ft from the waterbody. In this case, the Code (§310-31.4.G(1)) requires “any development and/or construction proposed in the buffer area which requires a building permit shall require a special permit and site plan approval from the Planning Board, except as noted in Subsection G(2)”. With respect to special permit approval, the applicant shall demonstrate to the Planning Board’s satisfaction that the following criteria are met (§310-31.4.G(1)(a)[1-7]):

[1] The development is consistent with the purpose and intent of the Overlay District.

[2] The construction of buildings, structures and impervious surfaces and disturbance of vegetation in the buffer have been avoided or minimized to the greatest maximum extent practicable. The Planning Board is hereby specifically authorized to relocate, or reduce the footprint, height or square footage, specify materials, require specific protocols for maintenance, of any building, structure or impervious surface, and/or the number of lots in a proposed subdivision, to the extent necessary to reduce impact on the buffer and associated streams or water bodies.

[3] The use and location of development is appropriate to the natural topography, soils, and other characteristics of the site to be developed.

[4] The development will minimize to the greatest extent practicable the impact, during construction or thereafter, on the quality or quantity of groundwater or surface water in the Overlay District.

[5] The construction proposed will avoid substantial disturbance of the soils, topography, drainage, vegetation and other natural characteristics of the site to be developed.

[6] Adequate provisions have been made for the collection and disposal of all stormwater that runs off proposed roads, parking areas, roofs, and other surfaces. Groundwater will be recharged to the maximum extent practicable on-site.

[7] Filling, excavation and earth-moving activity have been minimized to the greatest extent practicable.

Additionally, this section of the Code (§310-31.4.G.(1)(d)) allows the Planning Board to require enhancement of the riparian zone. This may be something you wish to discuss as the application progresses.

The applicant advises they have designed the parking lots and grading to follow the natural topography, an erosion and sediment control plan and stormwater management facilities will enhance the quality of water while minimizing runoff to Woodbury Creek.

Further, the applicant's narrative describes proposed infiltrating stormwater management practice will reduce runoff generated from the site and improve water quality. Due to the proximity of the development to Woodbury Creek and associated floodplains, the applicant should perform soils testing early in the process to confirm the proposed practice will function as intended. These tests should be witnessed by the Building Department or H2M.

Although, as the applicant suggests, approximately 60% of the site is encumbered by the buffer area, we recommend the Planning Board consider alternatives to each of the listed criteria above and opportunity to reduce the impact to buffer areas.

4. Wetlands – Once the limits of wetlands and waterbodies are certified correct, the applicant should confirm any other jurisdictional agency that has authority over the proposed action (if any) other than the Village Planning Board. The applicant should contact the Army Corps of Engineers early to determine if a permit is required from their agency to construct the outfall to Woodbury Creek. The local wetlands permit does not supersede the requirement for this permit if it is needed.

5. Floodplains – FEMA mapping indicates the site is located almost entirely within the Special Flood Hazard Area and portions may be within the floodway. The applicant's plan includes notes about the occurrence of the floodplain and at what elevations; Based on this, the site appears to be entirely within the 100-yr flood plain.

The applicant added the 25-year floodplain delineation to the plan, per the Code definition for lot area, these areas are considered unsuitable for development. Based on the applicant's plan, it appears no development is proposed within this area.

(Repeated) Per your Code (§159) this development requires a floodplain development permit from the Code Enforcement Officer. For this to be considered the applicant should: certify utility floodproofing per (§159-15C), describe whether watercourses will be altered or relocated as a result of the development, demonstrate via calculations a no rise condition post development, analyze whether flood damage could occur to another property as a result of the development, among other requirements of the Code (§159 & §161). General and Construction standards specified in (§159-14, 15, and 16) should be reviewed by the applicant and confirmed.

6. ESO Referral – At the appropriate time, the application should be referred to ESO's.

7. SEQRA – On July 20th, you declared your intent to be Lead Agency and declared the action Unlisted under SEQRA. On January 18, 2023, you assumed Lead Agency Status, reviewed and adopted the Part 2 EAF prepared by Counsel. At that time, the applicant requested you postpone your determination on environmental significance until they could submit additional information. With this recent submission, the applicant submitted a narrative discussing each of the impacts identified as "moderate to large" on the Part 2 EAF.

The Board should review and consider the information provided by the applicant in their Part II narrative, which with revision could be the initial drafting of an Expanded Part 3. The following are our comments on the information provided by the applicant:

a. Impact on Land/Located within the Water Quality Protection Overlay District – As discussed above, the project is subject to requirements of the referenced overlay district. Development is proposed within the riparian and buffer zones of the overlay. The comments above describe the Code requirements and considerations for the Board to authorize the development to proceed.

b. Impact on Surface Waters –

i. The applicant's narrative indicates no disturbance to Woodbury Creek and adjacent wetland are proposed; however, construction of the outfall is through and in the banks of these protected waterbodies.

ii. The applicant provides their opinion in the narrative stating there is no reasonable alternative for redevelopment of the site without encroaching the riparian and buffer zones. As described above the Code (§310-31.4) requires the Planning Board consider whether the applicant has demonstrated there are no reasonable alternatives; in our opinion the applicant should list the permitted uses in the Zone and demonstrate why each is unfeasible for this location, further they should provide alternatives for townhouse development that may comply with the regulations and avoid disturbance to regulated areas.

iii. We recommend the applicant provide a plan that shows the existing disturbed areas of the site (this could be identified by a certain color) overlain by the proposed project, with buffer and riparian zones noted on the plan.

iv. The applicant's narrative notes "If found to be necessary by the Town (sic), a US Army Corps of Engineers nationwide permit may also be required". As mentioned above, the applicant should contact the ACOE to determine if a permit is required. The Village is not the authority over that agency's jurisdiction.

v. As permitted by the Code (§310-31.4.G(1)(c)), you have requested the applicant provide a SWPPP; this should be provided to confirm the post-construction stormwater management practices proposed will function as intended. Throughout the narrative, the applicant describes a proposed subsurface infiltration structure, proof of infiltration by way of appropriate testing should be provided to the Board.

vi. The applicant provides their opinion that encroachments into wetland adjacent areas are “relatively minor”. This statement should be amended to describe the encroachments proposed (i.e., five (5) buildings, parking, and utilities). The plan showing previously disturbed areas overlain by the proposed development, may confirm the applicant’s statements regarding the functional value of the wetland adjacent areas, buffer, and riparian zones.

vii. An erosion and sediment control plan should be provided for you to confirm potential impacts during construction may be mitigated.

viii. Refer to our comments above (B.2.b) on cut/fill.

ix. Information regarding watertightness/waterproofing of proposed sanitary sewer facilities should be detailed on the plans.

c. Impact on Groundwater – The Village is under a moratorium for water supply; the applicant proposes 2,640 GPD of water/sewer usage. It is our understanding, there are no exemptions for a development of this type under the moratorium.

d. Impact on Flooding – As described above, the site is located almost entirely within the 100-ft floodplain and a floodplain development permit is required. Compliance with the requirements of the permit are needed to confirm if any impacts due to flooding would result from the proposed development. The narrative indicates buildings will be set at elevation 486-ft; the applicant should confirm this is intended to be 487-ft which is 2-ft above the base flood elevation. Additionally, the applicant should consider a revision to the following sentence in this paragraph, since elevating the structures does not impact displacement of flood waters but protects them from damage. The narrative should describe how the development will offset fill required to construct the development, provide means for floodwaters to flow through the crawlspace or other means, to ensure a no rise condition of floodwaters.

e. Impact on Historic Resources – The DEC mapper indicates archaeological sites could be present on or adjacent to the proposed site. Accordingly, a SHPO determination should be solicited by the applicant. Applicant previously advised this will be submitted.

#### 8. Miscellaneous

a. Refuse – A detail for the refuse enclosure should be provided at the appropriate time.

b. Signage – Signage details will be required at the appropriate time.

c. Construction Details – Construction details for site facilities: utilities, pavement, striping, refuse, curb, sidewalks, etc., will need to be provided at the appropriate time.

Chairman Gerver noted that if the Applicant chooses to continue going through with the intense plan the Board will then ask the Applicant to provide a SWPP (Storm Water Pollution Plan). Engineer Morgante said they were already done with subsurface stormwater management, so they were going to provide that information.

Traffic Consultant Philip Grealy mentioned his memo dated April 28, 2023, and proceeded to go over his comments.

#### Collier’s Engineering & Design Memo:

Based on our review of that information, we have the following comments and/or requests for additional information. Note, we have repeated our original comments and CM’s responses for ease of review.

CME Response to Colliers 11/9/2022 Letter Dated January 5, 2023

1. Estimates of the peak hour trip generation should be provided based on the Institute of Transportation Engineers (ITE) Trip Generation Handbook, 11th Edition, 2021.

CM Response: Please refer to Section 3.0 Traffic Assessment of the Traffic Assessment Letter Report (TALR) prepared by CM, dated December 2, 2022, which is included under Attachment A.

Colliers Comment: The CME Traffic Assessment Letter provides the requested information and the information shown in Table No. 1 are consistent with the ITE data and may actually be conservatively high for this size project.

2. Sight distances should be provided on the plans at the intersection of the proposed access connection to Falkirk Avenue.

CM Response: Please refer to the site plan for sight distances.

Colliers Comment: Sight distances still need to be clearly labeled on the site plan for the project driveway connection to Falkirk Avenue

3. An evaluation of the feasibility/consideration of sidewalks along Falkirk Avenue from the site to Smith Clove Road should be presented as it relates to access from the site to commercial facilities in the area.

*CM Response: There is an existing pedestrian walkway along the south side of Falkirk Avenue that runs from the existing culvert to the sidewalk along Smith Clove Road. There are no other pedestrian walkways along Falkirk Avenue. The proposed development does not include the construction of a sidewalk.*

*Colliers Comment: Comment addressed. The Planning Board should determine whether sidewalks or other accommodations should be provided by the project. These may be subject to available R.O.W. but could also include some signing and striping improvements.*

4. *The intersection of Falkirk Avenue and Smith Clove Road should be reviewed relative to sight distance and current operating conditions.*

*CM Response: Please refer to Section 4.0 Sight Distance Evaluation of the TALR for a discussion regarding sight distance at the Falkirk Avenue/Smith Clove Road intersection. Please refer to Section 3.0 Traffic Assessment of the TALR for a discussion regarding operations at the Falkirk Avenue/Smith Clove Road intersection.*

*Colliers Comment: Comment addressed. The Applicant's engineer should identify whether there are any additional measures which could be implemented which could alleviate this condition.*

5. *Peak hour traffic volumes at the intersection of Falkirk Avenue and Smith Clove Road should be identified to determine any operating issues. These should be identified for both AM and PM Peak Hours.*

*CM Response: Please refer to Section 3.0 Traffic Assessment of the TALR, which includes an operations evaluation of Existing, No-Build and Build traffic conditions at the Falkirk Avenue/Smith Clove Road intersection. The traffic evaluations in the TALR are based peak hour volumes identified by turning movement counts conducted at the Falkirk Avenue/Smith Clove Road intersection on January 11, 2022 from 7:00AM to 9:00AM and from 4:00PM to 6:00PM.*

*Colliers Comment: Traffic volume counts were collected and summarized in the report as requested.*

6. *Some information should be provided on school bus accessibility and/or school bus routes in the vicinity.*

*CM Response: Please refer to Section 2.0 Existing Conditions of the TALR, which includes a discussion regarding school bus activity.*

*Colliers Comment: School bus activity at the intersection of Falkirk Avenue and Smith Clove Road was addressed. With the potential increase in school children crossing Smith Clove Road, the Applicant's engineer should identify any other signing, striping, or other measures which could be implemented.*

7. *While the 12-unit development alone may not result in a significant impact on area traffic, the cumulative effect of this and other projects in the area should be considered as part of the review.*

*CM Response: Please refer to Section 3.0 Traffic Assessment of the TALR, which includes a discussion regarding traffic forecasting for the No-Build and Build conditions.*

*Colliers Comment: Our previous comment has been addressed.*

*Sincerely, Colliers Engineering & Design CT, P.C.  
(DBA Maser Consulting Engineering & Land Surveying)*

T. DeLuca asked that if this application goes forward, suggest adding sidewalks. Engineer Morgante said he would definitely look into it. Attorney Naughton asked when the next submission would be and Engineer Morgante replied that it may take some time, as there's a bit of homework that needs to be done.

- B. Orange Nursery** – Review and discuss documents submitted for an Amended Site Plan, Special Permit, and Water Protection Overlay of the proposed addition of a 48 x 96 storage building within the existing nursery. Said property is located at 1129 Route 32 in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 201 Block 1 Lot 49.

The Applicant said this application is about constructing a metal building to store trucks.

Engineer Jim Moran referenced the H2M memo dated April 28, 2023, and began to go over comments.

*H2M Memo:*

1. Zoning –

a. Use – The site is located in the R-3A zone, which permits landscaping businesses and nurseries as a special permit use with site plan approval by the Planning Board.

The applicant should discuss the use of the proposed building to support the operations of the site.

Per Code (§310-34), no structure or portion of structure dedicated to retail shall exceed 300-SF. Applicant to confirm compliance.

b. Bulk & Area Regulations –

i. Lot Area – The applicant should demonstrate compliance with the Code (§310-2) definition for “lot area” by demonstrating the net lot area after deductions is 5 acres as required by Code.

ii. Front Yard – Although it appears the plan is complying, the Code (§310-12.B) requires yards fronting on a State Highway be unoccupied and open to the sky not less than 50-feet in depth. A 50-ft setback should be shown on the plan for the front yard along State Route 32.

iii. Side Yard - Side yard required is 100-ft, where 14.0-ft and 89.4-ft is provided for the proposed building. The applicant’s bulk table notes the side yard is 1.2-ft and a pre-existing nonconforming condition; It appears the 1.2-ft setback is for the shop which is not on the plans approved previously. Further, according to the plans we have on file for the 2007 approval the bulk requirement for side yard setback at that time was 30-ft and the plan was complying. Subject to confirmation from Counsel, it appears a variance is required. Variance.

iv. Building Height – The applicant indicates the building will be less than 35-ft and less than the maximum permitted by Code. We recommend the applicant provide renderings/elevations demonstrating the proposed height of the structure is complying.

v. Coverage – The applicant’s coverage calculations require confirmation. The Code (§310-2) defines “coverage” as “that percentage of the lot area covered by the building area and all impervious surfaces. Parking areas, regardless how surfaced, shall be considered impervious.” With the exception of greenhouses, pergolas, concrete pads/walls, and parking areas, it appears most of the site is pervious, applicant to confirm. The bulk table identifies this as an existing nonconformity which should be confirmed. Additionally, if the new building creates a nonconforming condition a variance may be needed.

2. Site Plan –

a. Utilities –

i. General – The projected water and sewer demand form should be completed noting private well and septic, as well as estimated demand. Due to proximity to Woodbury Creek, the applicant should ensure all facilities are designed in consideration of buoyancy and water tightness.

ii. Water – The plan and prior approvals indicate the site is served by a private well. The applicant should confirm the status of the well and whether any changes are required to serve the proposed building.

Additionally, the plans indicate a new water service line is proposed from the pergola building and crossing under the same which appears to be in error if this is to remain. The supply line from the well should be shown on the plans and details of the proposed connection, including materials, size, and valving should be provided on the plan.

iii. Sewer – Our files indicate prior reviews required inspection and testing of the existing septic system for this property. The file goes on to indicate the results showed the system had limited capacity to support up to 5 employees. Standards<sup>1</sup> for estimating water and sewer demand for warehouses and offices, which may be most similar to the building proposed, assign 15 GPD/ employee. In our opinion the applicant should calculate the loading for the site and, due to the length of time since the last inspection, certify through testing that the system is adequate to support the new building. The test report should describe the facilities, status/capacity, and results of dye test.

b. Stormwater Management/Erosion and Sediment Control – The plans should show provisions for Erosion and Sediment Control during construction. Applicant to provide. Additionally, the applicant should describe what measures are in place to protect Woodbury Creek from site runoff during normal nursery operations. Finally, if any roof leaders are required for the building, the discharge locations should be noted on the plan.

c. Lighting – The applicant should confirm if any changes to lighting are proposed and, if so, show the same on a plan. The plan should confirm footcandles at property lines are limited to 0.1-fc. Additionally, light fixtures should be non-glare, have internal shielding, and comply with IDA, LEED, or Green Globe criteria for Nighttime Friendly or Dark Sky Lighting.

d. Floodplain – The property is mostly encumbered by the 100-year floodplain. The applicant should show the limits of the floodplain on the plan. Construction of the building may require a floodplain development permit per the requirements of your Code (§159 & §165). The applicant should review and provide appropriate materials for you to consider.

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.

We have the following comments on ARB:

a) We recommend the applicant provide a rendering for you to consider the proposal. a) An ARB application should be completed by the applicant.

4. Water Quality Protection Overlay (WQPO) – Due to the location of Woodbury Creek on the site, the application is subject to the requirements of the referenced overlay district. The applicant should show the 50-ft riparian and 100-ft buffer zones for you to consider the proposed action and compliance with the Code (§310-31.4). The following appears to be particularly relevant to this application:

a. Prohibited Activities Throughout the Overlay District – The Code (§310-31.4.E.(1)(b)) prohibits outdoor storage of any fertilizers, except in protective structures approved by the Building Inspector. The Code (§310-31.4.E.(2)) further requires no fertilizers may be applied in the riparian zone. Applicant to confirm compliance.

5. Landscaping Businesses and Nurseries – The applicant should confirm compliance with the Code (§310- 34). Each component of this should be demonstrated on the plan and/or included as a plan note.

6. SEQRA –We defer to Counsels direction on typing the action under SEQRA and next steps.

7. Miscellaneous –

a. Construction Details – Construction details for utilities and erosion and sediment controls will need to be provided at the appropriate time.

b. Easements – The applicant should advise if there are any easements or restrictions related to this parcel.

c. Plan Notes – The plan notes should be revised to reflect only those applicable and necessary for this application in the Village of Woodbury.

The Applicant admitted to receiving tonight the memos from the consultants. He is currently working with an engineer and was advised to have his engineer review the memos, address those comments, and forward his or her response to the Building Department. He was told that depending on the setback this application may need to go to the ZBA for a variance.

Attorney Naughton noted that once the Applicant submits all their information an EAF will be then given to be filled out. Also, this application needs a variance from the ZBA, therefore the Applicant will need to appear before the Zoning Board, and it will need a determination from the Building Inspector. She asked the Board to declare themselves lead agency under the State Environmental Quality Review Act.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to type this as an Unlisted Action and declare the Board’s intent to be the Lead Agency under SEQRA. 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. **Stein/Ideal Design ARB/20 Blueberry** – Review and discuss documents submitted for the reconstruction of a single-family dwelling within the existing footprint. Said property is located at 20 Blueberry Lane in Highland Mills and is known on the village of Woodbury Tax Maps as Section 217 Block 2 Lot 3.

Yitzchok Stein representing the Applicant gave a summary on the application. A single-story home with a basement. They will be keeping the same footprint but knocking down the building. The foundation will stay the same.



R. Cataggio asked that the Applicant provide a site plan and renderings of the property, so it shows it will stay the same. He asked that the measurements of the old and new dwellings be provided.

Mr. Stein said the pool and all the accessories will stay the same; a deck will be built on the second floor. He tried clarifying it was a one-floor home with an unfinished basement. Added that he will provide a site plan per the Board's request. He continued to say that a couple of square footage was taken away from the existing square footage and added an overhang. The Board briefly discussed the colors/materials, and they take no exception to design and colors.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to waive the public hearing for Stein/Ideal Design ARB/20 Blueberry. 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 motion was offered by Chairman Gerver, seconded by T. DeLuca, to type this as Type II under SEQRA. 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

Engineer Moran went over the H2M comments dated April 28, 2023.

*H2M Memo:*

1. Zoning –

a) Use – Single-family homes are permitted in the R-2A zone.

b) Bulk – A bulk table should be provided on a plot plan demonstrating compliance with requirements of the zone including coverage and height. The applicant provided an existing survey for the lot. Based on the survey, both side yards, 17.6-ft and 16.9-ft, are less than the minimum requirement of 30-ft. The plot plan should confirm the reconstructed footprint is to match existing. An estimate of impervious coverage appears to indicate the lot is noncomplying. If so, we recommend you confirm with the Building Inspector if the nonconforming bulk requirements are pre-existing and permitted to remain, or if they require variance since the home is to be demolished including existing foundation. Additionally, in review of the proposed floor plans, it appears two new decks are proposed. The applicant should confirm compliance with (§310-12.C.(2)).

c) Accessory Structure – The applicant should confirm if any changes to accessory structures (i.e., pools, sheds, gazebos) are proposed. We note the following comments identify nonconformities associated with these structures that should be confirmed:

i. The Code (§310-11.A) permits accessory buildings only in a rear yard. At least one shed is in the side yard. We recommend you confirm with the Building Inspector this is permitted to remain.

ii. The Code (§310-12.C.(3)) permits “a detached accessory building occupying not more than 25% of a required yard and set back from any lot line 1/2 the height of such accessory building, but in no case less than six feet.” The survey shows at least one shed is only 3.6- ft from the property line.

2. 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:

a) The applicant provided photographs and information on living area for other homes on Blueberry Lane ranging 75-FT to 367-FT away from the subject home for you to consider the similarity/dissimilarity criteria of your Code. The applicant should provide the living area of the proposed home for you to compare. We note the applicant proposes a large unfinished basement. The gross floor area of the home should also be provided. Additionally, we recommend the applicant provide a building footprint analysis of the comparable homes for you to consider.

b) ARB form should be updated to list gross floor area of the home after the rebuild.

c) We recommend the applicant provide dimensions of the unfinished basement and a table of floor areas on the proposed floor plan sheets for you to consider.

d) A rendering of the prepared home was provided. The rendering depicts a two-story home where a one-story home exists. We recommend you compare the rendering to photos provided on comparison homes and consider the similarity/dissimilarity criteria of your Code.

e) The ARB form lists "barkwood" shingles which are a mixture of red/brown color. The rendering appears to show a white/gray shingle. Applicant to confirm.

3. Ridge Preservation – This property ranges greater than 700-ft above mean sea level (AMSL) triggering your review under the Code (§310-13) requirements for Ridge Preservation (threshold 600-ft AMSL). The home is located between two view corridors (County Route 105 and Route 44). Our comments on Ridge Preservation follow:

a) The applicant provided a photo at the intersection of Seven Springs Road and Bakertown Road along the Route 44 view corridor facing the general direction of the proposed home. The photo demonstrates the home is not visible during leaf-on condition. We recommend you consider whether additional information should be provided to confirm visibility under your code. If the home is not visible, we believe you have the authority to waive any part of the Code (§310-13) provisions for Ridge Preservation.

b) Non-reflective windows are a requirement of your Code (§310-13.B.4), The applicant should demonstrate compliance by adding a note to the plan. Per your typical practice, we recommend this requirement be included as a condition of any action you take.

c) The Code (§310-13.B(5)) requires "To the greatest extent practical, every attempt shall be made to limit the amount of cutting and removal of trees so as to maintain natural site vegetation...". The applicant should confirm whether any trees are proposed for removal as part of the proposed project.

d) The Code (§310-13.B.(2) & (3)) requires earth tone or neutral colors that blend into the natural environment. We recommend you consider the renderings provided and if the materials prepared meet the intent of the Code.

4. Water/Sewer – The property appears to be served by a private well and septic. The applicant provided the projected water and sewer demand form as required per your typical requirements. No additional bedrooms are proposed that would increase the water and sewer demand on the property.

5. Encroachments – There are a number of encroachments on adjacent parcels due to existing fencing. We recommend any action you take note the Planning Board does not approve of the use of or location of encroachments. This should be reviewed with Counsel.

6. Public Hearing – At your discretion a public hearing should be scheduled or waived as permitted by your Code ARB (§314-8.A.) "upon determination that there is no apparent significant impact to the surrounding neighbors or neighborhood, given the mass and/or architectural features of the proposed project and that a public hearing is not necessary in the public interest."

7. SEQRA/GML Referral – We defer to Counsel's direction on SEQRA and GML Referral.

Mr. Stein reiterated how everything will stay the same, the setbacks, and lot coverage, The Applicant wishes to keep everything the same. The Chairman noted in order to confirm what is said, a site plan should be submitted, and the renderings should match the ARB form. Attorney Naughton said she would reach out and follow up with the Building Inspector for the determination. The Board confirmed that for the purpose of Ridge Preservations, they will drive to the location and check out the property.

**D. 228 Route 32 LLC** – Review and discuss documents submitted for the revised site plan to include landscaping planting beds for water runoff. 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

Present Attorney Mike Tynan and Designer Willie Zambrano.

Attorney Tynan said they are in front of the Board due to a violation issued by the Building Inspector. The violation was due to the landlord removing the plantings that were by the storefronts. The landlord's intention was to create more of a walking space for customers and an easier way for customers to walk to their vehicles. In response, the Applicant proposes to put back plantings, but not as many as before. Instead, he proposed to place plantings where the liters of the gutters are to absorb the stormwater.

Designer Zambrano explained the planters would have enough soil that during heavy rain there would most likely be some runoff, but the planters should be sustainable. The Board was not happy with the new design; there was a discussion on its previous look compared to what is currently proposed. Designer Zambrano made some suggestions and one of them was to have planting beds that were a little wider than what's currently planned as well as having an accessible walkway. The Board asked Engineer Moran if there were ways or designs for the planting beds to survive the runoff coming from the roof. There were also concerns, as it can be hazardous for pedestrians. Engineer Moran said there are calculations for planters to survive inclement weather.

Attorney Tynan and Designer Zambrano said they will engage with their engineer and look things over and redesign.

**E. LL No 8** - Review and discuss referral of Introductory Local Law No 8 of 2023 entitled "A Local Law Amending Chapter 8 ("Architectural Review Board") and Chapter A314 ("Architectural Review Board") of the Code of the Village of Woodbury to revise and clarify the guidelines and standards of the Architectural Review Board.

Attorney Naughton began by saying she made modifications to the provisions related to the Architectural Review Board. The Chairman gave a summary of what this Local Law entails. The ARB encompasses almost everything. The idea around these changes is to allow those minor additions, for instance, small decks, 500 square foot additions, bumping out on the rear of your house or a kitchen or you know like a kitchen nook or something like that. The idea behind this is to allow the Building Inspector to issue and review those plans without the Applicant having to appear before this Board. The Building Inspector would allow or have the authority to review or refer the Applicant to this Board. It does not get rid of any of the obligations that the Applicant has to do under the ARB. Plans, forms, and renderings still need to be submitted. Examples of situations were given by Attorney Naughton and Chairman Gerver. Comments and suggestions were previously given by Engineer Barber in her memo dated April 28, 2023.

*H2M memo:*

*Recommendations/Information –*

1. Chapter 8, Section 4(c): (12) *The law proposes to exempt additions that are 500-SF or less on homes in their original built form or with additions that were previously approved by the Planning Board or Building Inspector. You may wish to qualify this to avoid back-to-back applications for additions less than 500-SF. For example, you may wish to add to the end of this line "If modifications have been approved by the Planning Board and/or Building Department within two years of a new application, architectural review shall be required." Two years or some other reasonable threshold can be decided. We defer to Counsel on the best way to put this language forth in the law.*

2. Chapter 8, Section 4(c): (13) *This proposed section conflicts with exemption (3) and we believe it would be appropriate to revise (3) to reflect 750-ft in lieu of 500-ft indicated currently.* 3. Chapter A314, Section 7: (F) *We believe this is a good procedural clarification to memorialize current practice.*

*We have the following suggestions for revisions to memorialize repeat comments to applicants on these applications:*

4. Chapter A314, Section 7.C.(1): *A plot plan for each lot, with the location of house and driveway shown. Plot plan shall include dimensions to property lines and a bulk table confirming compliance with the requirements of the Zone for which the property resides, including coverage.*

5. Chapter A314, Section 7.C.(7): *Information on comparison homes/buildings within 300-ft (where possible) of the applicant's property lines including photos, gross floor area, and footprint. A table listing the proposed gross floor area and footprint of the subject property and the comparison homes/building should be provided with the application.*

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to authorize counsel with the modification on the callback and to incorporate Engineer Barber's comments. . 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

F. **LL No 9** - Review and discuss referral of Introductory Local Law No 9 of 2023 entitled “ A Local Law Amending Chapter 310 (Zoning) of the Code of the Village of Woodbury to clarify the guidelines and standards of Ridge Preservation review.

The Chairman gave a summary of what this Local Law entails. He said the intent behind ARB here is with Ridge Preservation, allowing small additions that don't require a lot of sight clearing, for instance, large tree clearing, the roof lines will not be higher than the existing roof lines um chimneys don't count so whatever the highest Ridge the addition couldn't go above that. There was further discussion on this definition.

Attorney Naughton said this law talks about the structure at the rear of the home. She wanted to clarify the word “structure” in principal dwellings, therefore it was agreed and suggested to use “principal structure”.

Comments and suggestions were previously given by Engineer Barber in her memo dated April 28, 2023.

*H2M memo:*

*Recommendations/Information –*

*1. Chapter 310-13(B)(8)(c)(v) and (l)(iv): We recommend the first sentence of each of these sections discussing limits of disturbance be revised to state “The area of disturbance shall be kept to the minimum necessary to construct the (deck/addition)...”.*

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to authorize counsel to draft a memo incorporating the changes that were discussed. 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

G. **LL No 10** - Review and discuss referral of Introductory Local Law No 10 of 2023 entitled “ A Local Law Amending Chapter 310 (Zoning) of the Code of the Village of Woodbury to clarify the guidelines and standards for Portable Pools.

The Chairman gave a summary of what this Local Law entails. The only pool that is exempt from obtaining a building permit in Woodbury are 2 x 6 or smaller pools. Any larger pools would require a site plan, an electrical inspection, a one-time fee of \$100, and an annual inspection (only if the pool is not moved around).

Comments and suggestions were previously provided by Engineer Barber in her memo dated April 28, 2023

*H2M Memo:*

*Recommendations/Information –*

*1. The existing law (§310-25.A.) provides some discussion on “portable pools” which may be in conflict with the proposed modifications. We recommend the following changes:*

*A. Private residential swimming pools. Swimming pools accessory to and not attached to one-family dwellings, whether permanent or portable, shall be located not closer than 20 feet to any side or rear lot line, except in an R-0.25A District, where such distance shall be at least 10 feet from a side lot line. Swimming pools shall only be permitted in a rear yard. These regulations shall not apply to portable pools that do not exceed two feet in height or six feet in length.*

*2. We recommend Part C.10 be amended to add the sentence: “Chlorinated discharges to the storm sewer system are not permitted.”*

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to authorize counsel to draft a memo incorporating the changes that were discussed. 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 motion was offered by Chairman Gerver, seconded by T. DeLuca, to change the 7:30 p.m. time on May 17, 2023 meeting to 8:00 p.m. . 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

**Adjournment:**

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by T. DeLuca, to adjourn the meeting at 8:48 PM.

**ADOPTED**

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

Claudia Valoy-Romanisin, Planning Board Secretary