

Minutes of the Zoning Board of Appeals Meeting held on November 13, 2019 at 7:30PM

Present: Karen Ungerer, Chairwoman
Kevin Abrams, Craig Brady, Joseph DeVenuto, Gary Kestenbaum
Absent: None
Also, Present: Robert Dickover, ZBA Attorney; Timothy Egan, Mayor - Elect

1. Executive Session: N/A

2. Approval and Acceptance of Previous Minutes:

Motion was offered by K. Abrams, seconded by C.Brady, to approve and accept the minutes of the meeting held on October 9, 2019. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

ADOPTED	AYES	4	Ungerer, Abrams, Brady, DeVenuto
	NOES	0	
	ABSTAIN	1	Kestenbaum

3. New Business – n/a

4. Action on Decisions –

A. Philibert/Davis –

Review decision for an area variance to permit the continued use of a 6ft high stockade multicolored fence in a side yard. Said property is located at 1021 State Route 32, HM SBL 201-1-21.

In employing the balancing tests set forth in Village Law Section 7-712-b (c), the Board hereby grants the existing solid stockade fence height variance to allow it to be six feet high and to remain at the front corner of the dwelling requested upon the following conditions:

1. The applicants are to change the multi-color to a uniform color within 180 days of the adoption of this Decision. Failure to do so shall result in this decision being rendered null and void.
2. The 6-foot height variance for the fence is granted for the propose of the existing fence and no other fence is to be constructed nor shall the existing fence be expanded in size or location in further derogation of the zoning code. No fence structure other than the existing fence is authorized by the decision.

By roll call a motion to adopt the decision was voted as follows to grant a variance allowing a six-foot solid stockade one colored fence.

ADOPTED	AYES	4	Ungerer, Abrams, Brady, DeVenuto
	NOES	0	
	ABSTAIN	1	Kestenbaum

B. Premium Outlet Partners/Woodbury Common –

Review decision for an area variance to permit the installation of an additional freestanding sign at the new 2nd entrance to Woodbury Common created by the Exit 131 improvements on Nininger Road. Said property is located off of Route 32, CV SBL 225-1-70.2.

In employing the balancing tests set forth in Village Law Section 7-712-b (c), the Board hereby grants the variance as requested upon the following conditions:

1. This approval is not granted in a vacuum but is rather one of three independent yet interconnected discretionary approvals (the others being within the jurisdiction of the Village of Architectural Review Board ("ARB") and Planning Board). As such, this grant of variance is conditioned upon approval of the proposed sign by the Village of Woodbury ARB and Planning Board. This approval by the ZONING BOARD OF APPEALS is intended to do no more than vary the specified strict limitation provisions of the Code; it is not intended to authorize construction of a particular building nor approve the footprint, size, volume or style thereof. The Planning Board and ARB remain possessed of all of their power and authority to review, limit, request modifications to, and to ultimately approve (absolutely

or conditionally) any application I reference to this project as may come before each of them. Should the ARB or Planning Board require changes in the size, location or configuration from what is shown on the plans before the Zoning Board of Appeals that require greater or different variances, the applicant must return to the Zoning Board of Appeals for further review and approval.

2. The variance hereby granted are granted for the purpose of authorizing construction of a second monument sign only. No construction other than for such elements is authorized by this decision and no future or different construction can occur without a new variance being granted.
3. As noted above, this application is not decided in a vacuum but is rather tied to a specific application for approval pending before the Planning Board and Architectural Review Board. Therefore, this approval is conditioned upon the applicant diligently pursuing his application before those boards. Unless otherwise specified, any order or decision of this Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within 180 days from the date of this decision or final Planning Board approval, whichever is later. This Board may extend this time for one additional period of 90 days if such extension is warranted by the particular circumstances.

By roll call a motion to adopt the decision was voted as follows to grant a variance allowing a second free-standing sign to be installed on a lot.

ADOPTED	AYES	4	Ungerer, Abrams, Brady, DeVenuto
	NOES	0	
	ABSTAIN	1	Kestenbaum

5. Public Hearings -

A. The Shops of Woodbury, LLC –

Continuation of Public Hearing for area variances and interpretation. Applicant proposes to construct a commercial center and hotel having a lot area of 9.65 acres. The height of the proposed hotel is 60 ft. high, whereas, pursuant to Section 310-7 bulk regulations, the maximum height permitted is 35 ft. Furthermore, the applicant requires an interpretation as to whether a hotel is permitted as part of a commercial center pursuant to Section 310-49(c)3. In the alternative, the applicant is requesting an area variance from the minimum lot area required pursuant to Section 310-6f. Said property is located in the IB Zoning District off of the intersection of State Route 32 and Locey Lane in Central Valley and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lots 34.1 & 34.2.

The applicant requested an adjournment to the December 11, 2019 ZBA meeting for one month via email.

Motion was offered by K. Abrams, seconded by Chairwoman Ungerer, to carry over the public hearing as per the applicant's request. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES	5	Ungerer, Abrams, Brady, DeVenuto, Kestenbaum
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B. Reineke Vite –

Public Hearing for an area variance to permit the construction of a single family dwelling on a preexisting lot having no frontage on a public roadway or suitable roadway improved to the satisfaction of the Highway Superintendent. Said property is located between 97 and 101 Smith Clove Road in the R2A Zoning District and is known on the Village of Woodbury Tax Maps as Section 218 Block 2 Lots 88.

The board had some concerns about the road and the sq. footage of the proposed house. Chairwoman Ungerer, stated the applicant submitted 43 years of decisions and everything seemed to be handled case by case. Attorney Dickover, stated that he feels due to the road not having any formal status the variance should not be granted. The applicant's attorney asked why the variance was created if it would never be allowed to be granted.

G. Kestenbaum, made a motion to go into executive session for this application, seconded by J. DeVenuto. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES	4	Ungerer, Brady, DeVenuto, Kestenbaum
NOES	1	Abrams

The board went into executive session at 8:04 PM and returned at 8:20 PM

Motion was offered by C.Brady, seconded by G. Kestenbaum, to close the public hearing. The board stated it was a type two action with no further environmental review required. The board requested their Attorney Dickover to draft a decision for consideration on this matter after a discussion with council during executive session. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES	5	Ungerer, Abrams, Brady, DeVenuto, Kestenbaum
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C. Hasan –

Public Hearing for an area variance to permit the construction of an addition to an existing single-family dwelling leaving a side yard of 20 ft. Whereas, pursuant to Section 310-6(B) and 310-7 District Regulations a minimum side yard of 30 ft. is required. Said property is located in the R1A Zoning District and located at 166 Ridge Road in Highland Mills and known on the Village of Woodbury Tax maps as Section 236 Block 6 Lot 4.

The board discussed the addition of the house with the applicant. The applicant stated his family is growing and this addition is his only option and he would like to live in the neighborhood so his children can continue their education here. The board requested a clearer mapped out rendering (survey) from the applicant so they can make sure they are giving the proper variance.

Motion was offered by K. Abrams, seconded by G. Kestenbaum, to close the public hearing and deliberate later. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES	5	Ungerer, Abrams, Brady, DeVenuto, Kestenbaum
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D. Hartman Design –

Public Hearing for an area variance to permit the construction of a new Single-Family Dwelling. The applicant proposes a front yard of 36.9 ft. (First Ave) and 30 ft. (Seven Springs Rd). Whereas, pursuant to Section 310-7, 310-12(D), a 40 ft. front yard setback is required. Furthermore, the applicant proposes a 45.2 ft. rear yard, whereas, pursuant to Section 310-7 a 50 ft. rear yard is required. Said property is located on a corner lot in the R2A Zoning District at 62 First Ave. in Highland Mills and is known on the Village of Woodbury Tax maps as Section 214 Block 1 Lot 1.

The board discussed the house with the applicant, the applicant stated that he lost his previous house in a fire. He then stated the proposed house is slightly bigger and taller than the existing, the lot coverage will decrease.

Mr. Dave Alanzo, a neighbor to Hartman stated that this house will beautify the neighborhood. He has lived next to Mr. Hartman for the past 15 years and he is a great neighbor and he keeps his property in tip top shape.

Motion was offered by K. Abrams, seconded by G. Kestenbaum, to close the public hearing and deliberate later. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES	5	Ungerer, Abrams, Brady, DeVenuto, Kestenbaum
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6. Building Inspectors Report: N/A

7. Deliberations on closed Public Hearings:

A. Hasan –

The following responses were provided in the "Statement of Ownership and Interest" provided by the applicant for a use variance and the Boards decision on each question follows:

1. *Will the granting of this variance produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties?* The applicant stated No, it will not All most all of our neighborhood houses are 1,600SF & above and our house is probably the smallest house in our neighborhood. In fact, after this addition, our house will achieve close to that square footage. Character and style of our house will be very similar to the nearest houses in our neighborhood. I am positive this addition to our primary house will enhance the value (not only financial) and similar quality house of our great neighborhood.
The Board Agreed.
2. *Can the benefit you seek be achieved by some other feasible method other than variance?* No, we cannot achieve the similar benefit from other options as described below:
Right side of the house: We will lose the deck. All utility (Gas, electric, water) outside access is under of the deck. Back of the house: We'll lose Bedroom, Bathroom windows. It will block the slope of the backyard which will prevent the rainwater going away from the back (N/W) of the house.
Building two story: This house was built in 1963. Losing the roof and due to all constructions inside of the house, it'll not be quite feasible to stay out with my 3 school going kids until completion.
Basement: very humid, during heavy or persistent rain creating water pressure that pushes moisture and water coming in from left side basement floor. We always can feel moisture/cold on the floor all seasons long. We do not have a required height (7feet) of the finished floor.
Moving out: We have been weighting this option for last a few months facing our current situation. We love living in our neighborhood/area, very nice, quiet and safe. Kids love their schools and enjoy all of those recreations (Rez, parks, pool, sports) our town has. Our two daughters are in High School now (11th and 10th Son Is starting Smith Clove this September 2019. Their study will be very interrupted at this stage especially for our daughters. Our house is in very convenient location. **The Board Agreed.**
3. *How substantial is the variance that you are requesting?* Answer: We have about 43.8 feet from the property line as per the survey attached. We are requesting 22 feet out from west side (left side) of our house towards fence where we are needed to build 2 bedrooms and a bathroom. Addition at left side of the house will make much easier access to left side of basement utility room thru the non-bearing basement wall to the addition which will be pretty cost effective. This addition will prevent the natural rain- water pressure from left side of the basement which will stop water coming in and will increase a little more privacy to our backyard looking straight from Jones Drive. **The Board Agreed.**
4. *Will the granting of the variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?* Answer: Not at all. This is our primary residence. Addition will not have any adverse effect or harm to any public safety or impact on the physical or environmental in our neighborhood or district at all. **The Board Agreed.**
5. *Is the alleged difficulty self-created?* No. Our family is growing, we have three kids now. Living in a two bedrooms and one & half bath house for 11 years, last couple of years it became really difficult and unhealthy living. **The Board Disagreed it is self-created.**

Motion was offered by K. Abrams, seconded by G. Kestenbaum, to have the attorney draft a resolution of approval pending the 239 from the county. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES 5 Ungerer, Abrams, Brady, DeVenuto, Kestenbaum

B. Hartman –

The following responses were provided in the "Statement of Ownership and Interest" provided by the applicant for a use variance and the Boards decision on each question follows:

1. *Will the granting of this variance produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties?* Answer: No, the house itself does not encroach too much in the setbacks. Only the overhangs and front entry. **The Board Agreed.**
2. *Can the benefit you seek be achieved by some other feasible method other than variance?* Answer: No, the new setbacks don't allow for the owners proposed house. **The Board Agreed.**
3. *How substantial is the variance that you are requesting?* Answer: Very little since the existing house encroaches on the setbacks in the rear. **The Board Agreed.**
4. *Will the granting of the variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?* Answer: No. **The Board Agreed.**
5. *Is the alleged difficulty self-created?* Answer: Yes, but the existing house also encroached on the setbacks. **The Board Agreed.**

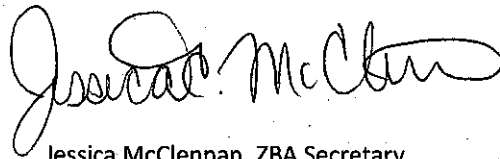
Motion was offered by C.Brady, seconded by K. Abrams, to have the attorney draft a resolution of approval pending the 239 from the county. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES 5 Ungerer, Abrams, Brady, DeVenuto, Kestenbaum.

8. Adjournment

With no further business to discuss, a motion was offered by K. Abrams, seconded by Chairwoman Ungerer, to adjourn the meeting at 9:05 PM.

ADOPTED AYES 5 Ungerer, Abrams, Brady, DeVenuto, Kestenbaum
 NOES 0



Handwritten signature of Jessica McClennan in cursive script.

Jessica McClennan, ZBA Secretary