

Minutes of the Zoning Board of Appeals Meeting held on October 9, 2019 at 7:30PM

Present: Karen Ungerer, Chairwoman
Kevin Abrams, Craig Brady, Joseph DeVenuto
Absent: Gary Kestenbaum
Also Present: Attorney Robert Dickover; Timothy Egan, Village Trustee

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 September 11, 2019. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES 4 Ungerer, Abrams, Brady, DeVenuto

3. New Business – n/a

4. Action on Decisions –

A. Sofer -

Review decision for an amendment to an existing variance granted on September 12, 2018, to permit a tan insert to a 6ft high solid stockade fence, whereas said variance was granted to permit only white vinyl fencing. A variance is required pursuant to Section 146-7d, whereas proposed fence will be multi-colored. Said property is located in the R2A Zoning District at 14 Pheasant Run in Highland Mills and is known on the Village of Woodbury Tax maps as Section 247 Block 2 Lot 5.

In employing the balancing tests set forth in Village Law Section 7-712-b (c), the Board hereby grants the modification in the previously issued variance to allow a tan colored fence rather than white and to grant a variance to allow a multi-colored fence, to wit: white and tan.

Motion was offered by K. Abrams, seconded by Chairwoman Ungerer, to approve the decision as read (full decision on file in the Village Clerk's office). Chairman Ungerer, conducted a roll call of the Board which resulted in the motion being:

AYES 4 Ungerer, Abrams, Brady, DeVenuto

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.

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

AYES 4 Ungerer, Abrams, Brady, DeVenuto

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.

Motion was offered by C.Brady, seconded by K. Abrams, to carry over the public hearing as per the applicants request. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:
AYES 4 Ungerer, Abrams, Brady, DeVenuto

C. Philibert/Davis –

Public Hearing for an area variance to permit the continued use of a 6ft high stockade multicolored fence in a side yard. Whereas, pursuant to Section 146-5(A) and Section 146-7(D) of the Village Code, no fence 6ft. high shall extend forward of the rear building line of any dwelling and no fence shall be multicolored. Said property is located in the R3A Zoning District at 1021 State Route 32 in Highland Mills and is known on the Village of Woodbury Tax maps as Section 201 Block 1 Lot 21.

Mrs. Philibert and Mr. Davis approached the podium and requested that the board allow them the variances requested, specifically the height due to their concerns for the safety of their children. They stated that there are many accidents on Route 32, and they feel uneasy with their children playing in the yard without the fence being there. They feel that the 6 foot high fence would better protect their children instead of the 4ft fence that is allowed. The board questioned what type of support system is in place for the fence. Mr. Davis stated that there are 4x4's and concrete blocks.

Mr. Clyde Macroni a neighbor of Mrs. Philibert and Mr. Davis stated he has a stone wall and cars have gone through the wall. He believes the board should allow them to keep the fence at 6 feet for the safety of the children.

Motion was offered by K. Abrams, seconded by J. DeVenuto, to close the public hearing and deliberate at the end of the meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:
AYES 4 Ungerer, Abrams, Brady, DeVenuto

D. Premium Outlet Partners/Woodbury Common_–

Public Hearing 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. Whereas, pursuant to Section 310-30 (D)(2)(a) only one freestanding sign is permitted per premises. Said property is located at off of Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lot 70.2.

Mr. John Villapiano, stated the Woodbury Commons seeks approval for a second monument sign at the future Nininger Road entrance. He stated it will be a one sided sign and it will serve as a point of arrival for shoppers to look for.

Motion was offered by K. Abrams, seconded by C.Brady, to close the public hearing and deliberate at the end of the meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:
AYES 4 Ungerer, Abrams, Brady, DeVenuto

6. Building Inspectors Report: N/A

7. Deliberations on closed Public Hearings

A. Premium Outlet Partners/Woodbury Common_–

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. The proposed sign will be identified in size and architecture to the existing freestanding sign. The sign will only be visible to the customers accessing Woodbury Common from the new Nininger Road entrance. **The Board Agreed.**
2. *Can the benefit you seek be achieved by some other feasible method other than variance?* The applicant stated: No. A second freestanding sign is not permitted by code. **The Board Agreed.**
3. *How substantial is the variance that you are requesting?* The applicant stated: Not substantial. The proposed sign will be located at a different entrance and not along Route 32. The two signs

fence needs to be a solid color. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES 4 Ungerer, Abrams, Brady, DeVenuto

8. Adjournment

With no further business to discuss, a motion was offered by K. Abrams, seconded by Chairwoman Ungerer, to adjourn the meeting at 8:26 PM.

AYES 4 Ungerer, Abrams, Brady, DeVenuto

Jessica McClennan, ZBA Secretary