

Minutes of the Zoning Board of Appeals Meeting held on October 14, 2020 at 7:30PM

Present: Karen Ungerer, Chairwoman
Kevin Abrams, Craig Brady, Joseph DeVenuto, Andrew Zoumas
Absent: None
Also, Present: Attorney Robert Dickover

Chairwoman Ungerer, opened the meeting with the pledge of allégiance, introduced the board and stated that the next meeting will be held on November 11, 2020.

1. Executive Session: N/A

2. Approval and Acceptance of Previous Minutes:

Motion was offered by A. Zoumas, seconded by K. Abrams, to approve and accept the minutes of the meeting held on September 9, 2020. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES 5 Ungerer, Abrams, Brady, DeVenuto, Zoumas

3. New Business –

4. Action on Decisions –

A. Martinez –

Review decision for an area variance, per denial of building permit, to permit the construction of an 18' x 36' in ground pool (accessory structure) in a side yard. Whereas, pursuant to Section 310-11(c), an accessory structure is only permitted in the rear yard. Said property is located in the R1A Zoning District at 8 Clinton Alley in Central Valley with a mailing address of 8 Clinton Alley Monroe, NY 10950 and is known on the Village of Woodbury Tax Maps as Section 254 Block 2 Lot 67.2

Chairwoman Ungerer, read in the following decision of the board:

After hearing the testimony at the public hearing and considering the materials received by the Board and after viewing the subject site, and 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, if any: Conditions: None.

ADOPTED BY ROLL CALL AS FOLLOWS:

Chairman Ungerer:	AYE
Board Member Abrams:	AYE
Board Member Brady:	AYE
Board Member DeVenuto:	AYE
Board Member Zoumas:	AYE

5. Public Hearings -

A. Burke -

Public Hearing for a Special Permit to allow for a second dwelling unit for an additional family member within the existing single-family dwelling pursuant to Section 310-35 of the Village Code. The applicant includes a proposed addition to be used as a bedroom and conversion of an existing 3 season room to a kitchen. Said addition is 210 square feet and will not exceed the permitted expansion of existing finished area (25% maximum) Said property is located in the R2A Zoning District at 26 Pine Hill Road in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 218 Block 2 Lot 58.

Frank Burke and Gina Burke are present as well as Mary Mantineo (mother in law). Chairwoman Ungerer stated that they applicant is looking to add a bedroom and extend the three-season room to a full kitchen. She then asked if they are putting up new siding of the house. Mr. Burke stated they are just putting new siding on a portion of the house. A. Zoumas asked if the right side of the house where the three-season room is, is new

construction. Mr. Burke stated the room was always there they are just added plywood, new siding and a new roof since the roof had collapsed. A. Zoumas, then asked if the new construction was going to be in the back of the house and Mr. Burke stated yes there is going to be a bedroom on the back of the house. A. Zoumas then asked if it is above grade or below. Mr. Burke stated that everything is above grade. A. Zoumas then asked if Mr. Burke's mother in law will be living with them full time. Mr. Burke stated his mother in law is on the title and deed of the house and yes, she is living with them full time. He stated she is in the upper level right now, but they want to move her down to the bottom level so that she is in the basement area of the house. Attorney Dickover wanted to confirm that the new construction is less than 1,000 square feet of floor area and that it is less than 25% of the existing floor area of the principal home now. Mr. Burke stated that he believes the ballpark is 214 square feet.

C.Brady, made a motion, seconded by Chairwoman Ungerer to open the public hearing to the public. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES **5** Ungerer, Abrams, Brady, DeVenuto, Zoumas

Chairwoman Ungerer stated that no member of the public had comments at this time, she then asked if the board had any further questions for this applicant. Attorney Dickover stated that a 239 referral was sent to the county and they have until September 30th to get a response back from the county. Chairwoman Ungerer then stated that the house is withing 500 feet of Smith Clove Road, which is a county road we need to request the county's input which it usually comes back with them saying that it is up to a local determination. She then stated that they can't close the public hearing until the 239 is received from the county.

K. Abrams stated he doesn't like that the applicant would have to wait two months, and that a decision should be rendered pending the response from the county. He then stated that the board should determine a decision and then vote on it at the next meeting once the 239 is received.

Attorney Dickover stated he can prepare a draft decision granting the permit pending the referral from the county, circulated it and in the meantime the board can act on it next month. He then stated that the public hearing must remain open.

K. Abrams made a motion, A. Zoumas seconded to request council to prepare a draft decision granting the requested special permit pending the 239 from the county.

ADOPTED BY ROLL CALL AS FOLLOWS:

Chairman Ungerer:	AYE
Board Member Abrams:	AYE
Board Member Brady:	AYE
Board Member DeVenuto:	AYE
Board Member Zoumas:	AYE

Chairwoman Ungerer made motion K. Abrams seconded to keep the public hearing open.

ADOPTED BY ROLL CALL AS FOLLOWS:

Chairman Ungerer:	AYE
Board Member Abrams:	AYE
Board Member Brady:	AYE
Board Member DeVenuto:	AYE
Board Member Zoumas:	AYE

B. Kasenot –

Public Hearing for an area variance to permit the conversion of a pre-existing non-conforming use (vacant warehouse) to a single-family dwelling. Pursuant to Section 310-6(B) and 310-7 a minimum of 10,000 sq. ft. lot area is required with a minimum front yard of 25 sq. ft., a minimum side yard of 10 ft., a minimum rear yard of 30 ft. with a maximum lot coverage of 35%, combined side yard of 20 ft., and minimum lot width of 75 ft. Said property has an existing lot area of approximately 3,271 sq. ft., with a front yard of 16 ft. (to edge of pavement), one side yard has 0 feet, a rear yard of 2 ft. with lot coverage of 39%, combined side yard at 13 ft. and a lot width of

56 ft. Said property is located in the R0.25A Zoning District at 39 Park Avenue in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 220 Block 5 Lot 44.

Mr. Hodges of the Kasenot Company as well as Patrick Gallagher and Chris Clapper were present to speak to this application. Chairwoman Ungerer, stated that this was a warehouse that had a special permit with the Village, and the Village is not willing to renew that special permit because it is in a residential area and it is currently a pre-existing non-conforming warehouse that needs to conform to make it compliant with the zoning within the Village. Mr. Hodges needs to sell it to pay off the taxes on the property.

The board felt that the applicant was asking for a lot of variances and that there is no driveway. K. Abrams stated that the road that leads to the back is a right of way for the houses in the back. Mr. Hodges stated that there is a pad there for a car to be parked. Chairwoman Ungerer stated that on the bottom level the applicant wants to put the garage and living area and then upstairs have everything else. Mr. Gallagher stated he is listed as the contracting party and are looking to do the renovations to the property. Ms. Clapper stated they live in Brooklyn right now and they are looking to buy the building and renovate it. She then stated it is a beautiful building and they are really looking forward to living there. They currently live in a warehouse in Brooklyn which is why this kind of structure is appealing to them. They have been living in Brooklyn for 26 years and they are looking for something exactly like this that they could turn into their living space. She then stated that Mr. Gallagher is a licensed contractor in NY, and they are both artists so they know how to renovate property and they would like to turn the downstairs into a little studio. Chairwoman Ungerer asked if the rendering that was submitted is something that they plan to do, and Ms. Clapper stated yes. A. Zoumas asked if it was currently a two-story building, Chairwoman Ungerer, answered yes. A. Zoumas then asked where exactly the driveway was to park the car because it doesn't look like there is 16 feet in the front. Mr. Hodges stated it is there. Chairwoman Ungerer stated that when you drive up the right of way it is on the left. C. Brady stated it seems like the intention is to park the car in the garage. Chairwoman Ungerer, stated that she knows that there are a lot of variances associated with this request, however; she feels that if nothing is done to this building it will become an eyesore over time and nothing would change as far as setbacks or boundaries. She then stated what the applicant submitted looks nice in her opinion and there is nothing else that can be done with this property, there is no where to expand, due to the residential houses going up around it. J. DeVenuto questioned the 2-foot red marking on the drawing that looks like a stream running down and questioned why it gets larger on the other side. Mr. Hodges stated that it is a stream that gets larger on the one side of the building.

Chairwoman Ungerer, made a motion, seconded by J. DeVenuto, to open the public hearing to the public. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

AYES 5 Ungerer, Abrams, Brady, DeVenuto, Zoumas

Chairwoman Ungerer stated that no member of the public had comments at this time, and Attorney Dickover stated that there were no questions or comments in either the zoom feature or on facebook. Chairwoman Ungerer, then asked if the board had any further questions for this applicant. Attorney Dickover stated that a 239 referral was sent to the county and they have until September 30th to get a response back from the county.

C.Brady made the motion, Chairwoman Ungerer seconded to declare themselves lead agency for SEQRA purposes and state that it is a type 2 action with no further environmental review required.

ADOPTED BY ROLL CALL AS FOLLOWS:

Chairman Ungerer:	AYE
Board Member Abrams:	AYE
Board Member Brady:	AYE
Board Member DeVenuto:	AYE
Board Member Zoumas:	AYE

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 building

has been there since 1914 and has been maintained over the years until the business could no longer produce and income. **The Board Agreed.**

2. *Can the benefit you seek be achieved by some other feasible method other than variance?* The applicant stated: No, the business operated out of this building for over 18 years with a special permit. The town will not re-issue the special permit, so they are unable to use the building for our business and we are unable to re-establish a business. **The Board Agreed.**
3. *How substantial is the variance that you are requesting?* The applicant stated: Very, the building is a no zone residential that can't sell it as a commercial building. They owe state taxes that are now leaning on the property and they don't have funds to pay unless they sell. **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?* The applicant stated the building has been there since 1914 and will not have the additional effect. **The Board Agreed.**
5. *Is the alleged difficulty self-created?* The applicant stated No, the market crash in 2008 was the cause of us not being able to continue the business and occupying the building **The Board Agreed.**

C.Brady made a motion, A. Zoumas seconded to request council to prepare a draft decision granting the requested area variances consistent with the findings, facts and discussions by the board this evening, to be rendered next month, binding on the reception of or a decision on the 239 referral from the county.

ADOPTED BY ROLL CALL AS FOLLOWS:

Chairman Ungerer:	AYE
Board Member Abrams:	AYE
Board Member Brady:	AYE
Board Member DeVenuto:	AYE
Board Member Zoumas:	AYE

K. Abrams made motion A. Zoumas seconded, to keep the public hearing open to November 11.

ADOPTED BY ROLL CALL AS FOLLOWS:

Chairman Ungerer:	AYE
Board Member Abrams:	AYE
Board Member Brady:	AYE
Board Member DeVenuto:	AYE
Board Member Zoumas:	AYE

6. Building Inspectors Report: N/A

7. Deliberations on closed Public Hearings: N/A

8. Adjournment

With no further business to discuss, a motion was offered by, K. Abrams, seconded by, J. DeVenuto, to adjourn the meeting at 8:14 PM.

ADOPTED AYES 5 Ungerer, Abrams, Brady, DeVenuto, Zoumas


Jessica McClennan, ZBA Secretary