

Minutes of the Zoning Board of Appeals Meeting held on March 10, 2021 at 7:30PM

Present: Karen Ungerer, Chairwoman
Kevin Abrams, Craig Brady, Andrew Zoumas
Attorney Robert Dickover, Joseph DeVenuto
Also, Present: Mayor Timothy Egan

Chairwoman Ungerer, opened the meeting with the pledge of allegiance, introduced the board and stated that the next meeting will be held on April 14, 2021.

1. Executive Session: N/A

2. Approval and Acceptance of Previous Minutes:

Motion was offered by K. Abrams, seconded by J. DeVenuto, to approve and accept the minutes of the meeting held on February 10, 2021. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

3. New Business –

4. Action on Decisions –

5. Public Hearings –

A. Abraham –

Continuation Public Hearing for an area variance for the demolition of an existing non-conforming three family dwelling and reconstruction of a 2-family dwelling. Whereas pursuant to Section 310-43.2(B)3, a non-conforming use cannot be changed to another non-conforming use and per Village Code Section 310-43.2(C), a non-conforming use cannot be expanded without Zoning Board approval. Furthermore, per Village Code Section 310-7, the minimum lot size is 2 acres and 0.48 is provided, a rear yard setback of 50 ft. is required and 45.06 is provided and a side yard setback of 30 feet is required and 15.45 is provided. This property is located on a private road and as per Village Code Section 310-8, all new construction must be located on a State, County or Village Highway or Street. Said property is located in the R2A Zoning District at 14 Skytop Road in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 217 Block 3 Lot 5.

Chairwoman Ungerer stated that the applicant wishes to demolish the existing structure which is a three family and make it into a two family and wishes to expand the floor area by 10 percent with two possibilities, one in the same location, which would not require any further variances and the second erected further back which would require multiple variances. The applicant is looking for relief from the two-acre zoning requirement and the relief from the construction on a County, Village or State road. Mr. Jay Myrow, the applicant's attorney stated the applicant is not looking for relief from any non-conformities because it is illegal non-conforming, they are simply looking for a special permit that would allow the applicant to expand by ten percent. If the board chooses the second plan that would create a rear yard setback and then they would ask for an area variance on a rear yard non-conformity. Mr. Myrow then stated that the Falkowitz property right next door is a spot-on plan if the board chooses to go with the first possibility. The second would be moving the house back away from the road which would create a nine-foot encroachment and then they would need a variance. He then referred to a letter received from Inspector Thomasberger dated March 8th in which Mr. Myrow interprets Inspector Thomasberger letter as saying the applicant only needs area variances for encroachments that are created not on ones that exist based on the pre-existing structure. Chairwoman Ungerer then stated and that would be why the applicant would need two variances if the board chooses to go with the option of moving the house back. Mr. Myrow then

compared this house to the Falcowitz house right next door. K. Abrams stated the Falcowitz house was a mess, this house is occupied and does not look like it is in despair, he feels like there is a big difference between both houses. Chairwoman Ungerer then stated that at 3:31pm on March 10th the board received the unsigned engineers report with photos and asked the board if they had a chance to look it over. She then went on to say within the report it states that the structure is not suitable to be rebuilt upon the current foundation and Inspector Thomasberger sent a memorandum agreeing with the engineer, that if the house were to be demolished it would not be safe to build on the current foundation, but he did not say anything about the current structure being unsafe. K. Abrams, then said but the current foundation is suitable for what is there now. Chairwoman Ungerer then stated that the ZBA must decide what to do and that there is lot of things to consider.

Chairwoman Ungerer then asked Attorney Dickover if they should wait until the board reads the report to decide and he stated yes.

The board further discussed the foundation with Mr. Myrow in which he stated the foundation that is there is only going to get worse. C. Brady, then stated that he recalls a standing requirement for documents to be submitted at least five to seven days prior to the meeting, so based on the fact that this came in this afternoon and the board has not had time to review it he would like to request that the board table this discussion and keep the public hearing open for further review.

C. Brady, made a motion to carry over the public hearing, seconded by J. DeVenuto.

Motion was then tabled and C. Brady, withdrew the motion.

Chairwoman Ungerer stated that the board would need to ask the applicant and the public if they had any further comments since the public hearing was open to the public. Mr. Myrow stated he would like to wait for the board to read the report and would like to wait on the comments of the public. Chairwoman Ungerer stated no one from the public had anything to say. Attorney Dickover stated someone who identifies themselves as Aaron Lefton on the Facebook chat stated: Wow does not meet any requirements. The zoom chat had no comments.

A motion was then made by C. Brady, seconded by J. DeVenuto, to carry over the public hearing to the April 14th board meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

B. Balsome/Yenchik –

Public Hearing for a Special Permit for the continued use of an existing second dwelling unit for a family member (Ann Harris), pursuant to Section 310-35 of the Village Code. Said property is located in the R1A Zoning District at 53 Elmwood Drive in Highland Mills and is known on the Tax Maps as Section 208 Block 4 Lot 6.

Chairwoman Ungerer stated that the applicant moved into this house a little over a year ago and is looking to continue the use of the existing mother-daughter house. She then asked Mr. Balsome if its both floors or just the upper portion of the house, he stated it is a side by side living arrangement with the bottom level being an unfinished basement and not living space. Mr. Balsome stated it would be used by his mother-in-law. A. Zoumas asked if this was going to be his mother-in-law’s permanent residence and Mr. Balsome stated yes.

Chairwoman Ungerer stated that the board received a letter from a Ms. Eleanor stating she is in favor of this applicant being approved for the special permit and she goes on to say that Mr. Balsome takes good care of his family, property and are very good neighbors.

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

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

Mr. Nick Aniello stated he is one of Mr. Balsome’s neighbors and both of their children are friends, his mother-in-law puts his daughter on the bus in the morning and he has no problem with her living there due to them being great neighbors.

Attorney Dickover stated there is no comments in the Facebook or zoom feature.

A motion was then made by A. Zoumas, seconded by K. Abrams, to close the public hearing. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

C. Valdes -

Public Hearing for a Special Permit to permit a second dwelling unit for a family member (Priscilla Arias), pursuant to Section 310-35 of the Village Code. Said property is located in the R1A Zoning District at 20 Abrams Road in Central Valley and is known on the Tax Maps as Section 226 Block 1 Lot 37.221.

Chairwoman Ungerer stated the applicant states that this house is an existing mother daughter and Ms. Valdes enclosed a diagram, but she cannot figure out what was the existing house and what is in the second dwelling and where it is located within the house. Ms. Valdes stated it is in the lower portion of the house. Ms. Valdes then went on to say that it was a family emergency when her daughter lost her job and then she lost her own mother to COVID, her daughter moved in so she could help take care of her five-year-old granddaughter. Ms. Valdes stated she bought the house in 2016 and never used it as a mother-daughter. J. DeVenuto, then asked Ms. Valdes if the apartment takes up the entire bottom floor of the house. Ms. Valdes stated she uses part of the downstairs for her own personal office space. The board asked if there was ever a special permit issued or was this a mother-daughter house prior to the incorporation of the Village ZBA. They then asked the applicant to submit a drawing to scale and the total square footage of the apartment.

Chairwoman Ungerer then asked if anyone from the public had anything to say. No comments were received from the Facebook, zoom or public comment features.

A motion was then made by K. Abrams, seconded by J. DeVenuto, to carry over the public hearing to the April 14th meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

D. Yitzchok Stein/Ideal Design –

Public Hearing for an area variance based on a denial of a building permit by the Code Official to permit the expansion of a non-conforming seasonal dwelling. Proposed expansion of 87 sq. ft. will exceed the maximum 10% square feet of the existing dwelling (751 sq. ft.) pursuant to Section 310-432.2(c) of the Woodbury Zoning Code. Said property is located in the R2A Zoning District at 31 Seven Springs Road (Carmel Park) in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 216 Block 5 Lot 1.1.

Chairwoman Ungerer asked what the small addition was on the side of the house, and Mr. Stein stated it was the boiler. She then stated it looks like a porch was added at one point. Mr. Stein said yes. Chairwoman Ungerer then stated it looks like you want to square off the entire thing which would add 87 square feet to the house. Chairwoman Ungerer then stated it is basically a 16% expansion rather than a 10% expansion. Mr. Stein then stated it is a little more than the 10% that is allowed with a special permit. He was not counting the entire house – just the expansion. He then stated he feels that this would make the area look nicer due to them looking like cabins now. Chairwoman Ungerer asked the board if they had any comments.

J. DeVenuto, stated when he was reviewing materials for the first applicant and he came across a memo from a previous attorney that stated that the 10% floor area limitation sets the ceiling on the Zoning Board’s special permit authority and it is not a bulk provision that may be forgiven by the granting of a variance. He went on to say that he does not know if the ZBA has the authority to grant a variance of more than 10% in reference to what Attorney Donnelly stated in his memo. Attorney Dickover stated he would most likely stand by what Attorney Donnelly wrote and he is sure he put great thought into that memo before sending it out, but he will look it over and get back to the board. C. Brady, then asked if it was for any seasonal dwelling or any structure in the Village. J. DeVenuto, stated he believes any non-conforming structure within the Village. C. Brady, then stated he knows a

few people that have put additions on that were way beyond 10% so he would like to know what the non-conformance on this property is. Chairwoman Ungerer then stated she thinks it is because the Village does not recognize seasonal dwelling anymore but because this is a pre-existing seasonal dwelling and that is the non-conforming aspect. C. Brady asked the applicant to provide similar activities that have happened there in the past and if any others were squared out and granted special permits. A. Zoumas requested that Attorney Dickover look into it so they can decide next month and informed the applicant that after Attorney Dickover gives the ZBA his analysis then Mr. Stein can amend and move forward with his application at that time.

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

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

No comments were received from the public, Facebook or Zoom chat features.

A motion was then made by J. DeVenuto, seconded by A. Zoumas, to carry over the public hearing until the April 14th meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

6. Building Inspectors Report

7. Deliberations on closed Public Hearings

1. Balsome/ Yenchik –

Chairwoman Ungerer stated the applicant gave the board the original decision, and certificate of occupancy date. She then stated that all the neighbors were in favor of it and when she drove past the house it was nicely done. The board agreed.

A motion was made by A. Zoumas, seconded by K. Abrams, to have council draw up a favorable decision granting the special permit to the applicant's application consistent with the facts and findings of Zoning Board of Appeals. The board would also like to authorize Chairwoman Ungerer to sign the decision once it is presented to her satisfaction. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

8. Adjournment

With no further business to discuss, a motion was offered by K. Abrams, seconded by J. DeVenuto, to adjourn the meeting at 8:27 PM.

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

Jessica McClennan, ZBA Secretary