

Minutes of the Zoning Board of Appeals Meeting held on April 14, 2021 at 7:30PM

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

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 May 12, 2021.

1. Executive Session: N/A

2. Approval and Acceptance of Previous Minutes:

Motion was offered by C. Brady, seconded by J. DeVenuto, to approve and accept the minutes of the meeting held on March 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 –

A. Vite

A letter was received from the applicant’s lawyer Mr. Justin Kimple requesting an extension on behalf of his applicant. Within the letter Mr. Kimple states that his client is working diligently to ensure that she has the proper easement and road maintenance agreement as required by the variance she obtained for building on her property located at 97 and 101 Smith Clove Road. It then states that due to COVID issues his office, the death of his partner Mr. Stephen Reineke, the filing of the easement was delayed. He also states that the applicant signed the road maintenance agreement on December 30, 2020 and due to an office error, the document was not filed properly. He then went on to request the building permit be extended due to the easement that is ready to be filed.

Chairwoman Ungerer then stated the applicant has come in front of the ZBA multiple times starting back in 2005, she stated conditions and extensions were given to this applicant and the last extension was up last October. Mr. Kimple then stated everything is in place to finish up this application and would really appreciate an extension. C. Brady asked Attorney Dickover about Village code chapter 316-9 90-day extension period limitation regulation that was voted and approved by the Zoning Board in March of 2019 and if it was relevant to this application. Attorney Dickover stated that he was not prepared to answer that question and requested that the board table it he also requested Mr. Kimple to put a memorandum together of exactly what he is asking the board for.

Motion was offered by K. Abrams, seconded by J. DeVenuto, to table the discussion until next month. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

4. Action on Decisions –

5. Public Hearings –

A. Valdes -

Continuation of 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.

A letter was received by the applicant on April 9th requesting a postponement of the public hearing. Chairwoman Ungerer stated there were no comments in the Facebook or Zoom chat features. Motion was offered

by K. Abrams, seconded by A. Zoumas, to continue the public hearing until the next scheduled board meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

B. Yitzchok Stein/Ideal Design –

Continuation of 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 stated that last month Mr. Stein stated that there were other bungalows in the area that had gotten variances to expand, however she did check on that with the building department and she didn't find any that were given variances. The only one was a request that was made in 2008, but later the applicant withdrew their application. The board then discussed with the applicant that the Village code states that the maximum variance that can be given out by the Zoning Board of Appeals is 10%. The board then asked the applicant to amend their application and submit a new diagram to the building. The applicant then asked if he is asking for the 10% variance would he still have to come in front of the board. Chairwoman Ungerer stated yes he does.

Attorney Dickover stated that there was no one on the zoom chat except the applicant and the applicants representative and there are no comments on the Facebook chat.

Motion was offered by K. Abrams, seconded by J. DeVenuto, to continue the application but have the applicant submit an amended application to the building department at least a week prior to the next meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

C. 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.

Mr. Abraham as well as his attorney Mr. Jay Myroe were there to speak on behalf of the application. K. Abrams stated he feels that the board should allow them to tear it down and put the building up in the same location. He stated, both the engineer for the project as well as Mr. Gary Thomasberger, the Village Building Inspector state that the foundation is crumbling and if a new house was to be built new foundation would have to be laid down. A. Zoumas asked if the house was condemned. Mr. Myroe stated no. A. Zoumas then stated if the house is not condemned it is still a functioning safe house. C. Brady stated he feels that they could have asked for demolition and build a one-family house that may need a setback by the feels that they are asking a lot. Attorney Dickover stated that when you have a non-conforming use that is grandfathered into the code, it is for that structure and that structure alone. Once the structure is taken down and changed in any way the non-conforming use ends, due to it not being the same building anymore.

Both lawyers, Mr. Dickover and Mr. Myroe as well as the board went back and forth discussing the code and how it is written for quite some time, all discussing the sides of the law and how they both interpret the code.

K. Abrams, then requested that both lawyers send the board members a memorandum stating why they should allow or deny the applicants request. He also requested that they support the memorandum with facts,

codes and laws drawing their clear explicit views with useful information the board can draw a conclusion from. He also stated he requested that it be submitted at least a week prior to the next meeting so the board has time to review it.

C. Brady made a motion seconded by J. DeVenuto, to continue the public hearing to the next meeting and request Attorney Dickover to research the code and present useful information to the board so that they could come to a decision.

Attorney Dickover requested motion tabled.

C. Brady withdrew his motion.

Attorney Dickover stated that there were no comments on the Zoom or Facebook chat features.

C. Brady, made a motion seconded by J. DeVenuto, to continue the public hearing to the next meeting and request Attorney Dickover to research the code and present useful information to the board so that they could come to a decision. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

D. Ross –

Public Hearing for a Special Permit to permit a second dwelling unit for a family member (Martina Espana), pursuant to Section 310-35 of the Village Code. Said property is located in the R1A Zoning District at 6 Carroll Drive in Highland Mills and is known on the Tax Maps as Section 202 Block 1 Lot 46.

Chairwoman Ungerer called for the applicant earlier in the meeting and decided to wait until the end of the meeting due to this application being the last on the list originally. Again, the applicant was called upon and not present. Chairwoman Ungerer stated the applicant needed to be present.

Chairwoman Ungerer made a motion, seconded by K. Abrams, to carry over the public hearing and request that the building department reach out to the applicant informing them that they must appear.

Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

6. Building Inspectors Report: N/A

7. Deliberations on closed Public Hearings

8. Adjournment

With no further business to discuss, a motion was offered by J. DeVenuto, seconded by C. Brady, to adjourn the meeting at 8:56 PM. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

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

Jessica McClennan, ZBA Secretary