

Minutes of the Zoning Board of Appeals Meeting held on December 8, 2021, at 7:30PM

Present: Karen Ungerer, Chairwoman
Kevin Abrams, Craig Brady

Absent: Andrew Zoumas

Also Present: Attorney Kelly Naughton, Mayor Timothy Egan,

Chairwoman Ungerer, opened up the meeting with the pledge of allegiance, introduced the board and stated that the next meeting will be held on January 12, 2022.

1. Executive Session: N/A

2. Approval and Acceptance of Previous Minutes:

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

ADOPTED	AYES	3	Ungerer, Abrams, Brady
	NOES	0	

4. Action on Decisions: N/A

5. Public Hearings:

A. Valdes -

Continuation of Public Hearing to be moved to February due to moratorium 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.

Motion was offered by K. Abrams, seconded by C. Brady, to continue the public hearing until the February 9, 2022, board meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

ADOPTED	AYES	3	Ungerer, Abrams, Brady
	NOES	0	

B. Ross –

Continuation of Public Hearing to be moved to February due to moratorium 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.

Motion was offered by C. Brady, seconded by K. Abrams, to continue the public hearing until the February 9, 2022, board meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

ADOPTED	AYES	3	Ungerer, Abrams, Brady
	NOES	0	

C. Beer World –

Continuation of Public Hearing requesting variances from: (1) Section 310-32(B) to exceed the square footage for a retail establishment; (2) Section 310-30(D)(2)(d) to allow an additional wall sign in excess of what is permitted; and (3) Attachment 11 of Chapter 310 to allow additional wall sign area in excess of what is permitted. Said property is located in the LC Zoning District at 159 State Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 226, Block 1, Lot 9.2.

Motion was offered by K. Abrams, seconded by C. Brady, to continue the public hearing until the January 12, 2022, board meeting as per the applicant's request. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

ADOPTED	AYES	3	Ungerer, Abrams, Brady
	NOES	0	

D. Levy –

Continuation Public Hearing requesting variances for the reconstruction of a single-family dwelling that was destroyed by fire from Village Code Sections 310-7, 310-43, and 310-43.1. Said property is located in the R-3A Zoning District at 999 Route 32 in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 201, Block 1, Lot 20.

Chairwoman Ungerer asked if the applicant was present, he was. She then proceeded to tell her that his house was a non-conforming lot due to the location being in an R-3A zoning district that is less than three acres. Based on the code the applicant is allowed to have a single-family home there. She then stated the applicant exceeds the lot requirement, which is 15,000 square feet, the applicant has over 53,000 sq. ft. The lot width must be a minimum of one hundred and the applicant has 330. Chairwoman Ungerer asked if Mr. Levy had municipal water and sewer, Mr. Levy said he has a well and septic. Attorney Naughton stated she would put that in as a condition in the decision to continue to have well and septic. Chairwoman Ungerer then stated that the applicant would need setback variances and confirmed that with Attorney Naughton. Chairwoman Ungerer then stated that the Building Inspector has declared that more than 50% of the fair market value of the house had been destroyed and the Village code states that the applicant can not rebuild unless it conforms to the setbacks and the height. Due to the house having masonry walls and stone on the outside it would be difficult to relocate the house. Chairwoman Ungerer stated she would like to enter into record a letter from a Mr. Charles T. Brown an Engineer with Talcott Engineering in which it said he inspected the structure on August 5, 2021, he stated his three recommendations which were the following. 1. The fire damaged the roof and second floor ceiling, which shall be removed and replaced in kind. Second floor walls shall be braced prior to existing ceiling removal. 2. The first and second floor walls and floors framing is structurally sound and may remain. 3. He recommended that a mold mitigation specialist treat the floors. Attorney Naughton stated she submitted a memo for the board explaining the different variances and setbacks required and how the board could reach a determination when dealing with properties and structures of this nature. Chairwoman Ungerer asked if the applicant was going to keep the cement porch on the southern portion of the house. Mr. Levy stated he would like to keep it due to it being partially how you enter the house, but he would remove it if the board requested him to do so. K. Abrams stated he feels that the porch adds a sort of charm to the house, Chairwoman Ungerer agreed. K. Abrams, then stated this is another adverse reaction to the NYS thruway coming in and chopping up people’s property they did in the 1950’s, if they hadn’t done that to this house, all of these setbacks wouldn’t be an issue. The board then discussed the lots side yard, back yard and front yard and determined it to be a triangle with difficult lot lines and determining that the front of the house is parallel to Route 32 and the rear yard is actually the side yard. Attorney Naughton then thanked the applicant’s surveyor for helping her determine where the lines were and for being so responsive. C. Brady asked if through the research that Attorney Naughton did, did she happen to find any picture or reference material of what the house and property looked like prior to the thruway eminent domain seizure. Attorney Naughton stated that a title search would have to be done for that type of information. C. Brady stated that he feels the board should grant the variances requested.

Attorney Naughton and Chairwoman Ungerer stated they followed up with the Building Department to see if they received the 239 from the county and they had not, however; Attorney Naughton stated that it has been over 30 days since it was sent out, so the board is able to decide without the letter back from the county

A motion was made by C. Brady, 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	3	Ungerer, Abrams, Brady
	NOES	0	

A motion was made by C. Brady, seconded by K. Abrams,. To label this application a type 2 action through SEQRA. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

ADOPTED	AYES	3	Ungerer, Abrams, Brady
	NOES	0	

6. Building Inspectors Report: N/A

7. Deliberations on closed Public Hearings

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 the house has been built in 1870 and has become part of the neighborhood. The house has a positive impact on the neighborhood and nearby properties. The Board stated it will be a positive change and agreed with the applicant.
2. Can the benefit you seek be achieved by some other feasible method other than variance? The applicant stated he is not aware of any other way. The Board agreed due to the circumstances.
3. How substantial is the variance that you are requesting? The applicant stated he sees the house having a positive impact on the neighborhood and nearby properties. The house has been there for the past 150 years, and the request is to restore the house to its previous condition. The Board agreed and stated that it is a substantial request numerically, however there is no choice because that is what it would take to fix the house.
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 not that he knows of. The Board agreed and stated it this will be a positive effect on the neighborhood.
5. Is the alleged difficulty self-created? The applicant stated no, this is a result of an unfortunate/tragic event of fire. Restoring this house may bring some piece to the previous owner, may his soul rest in peace. The Board agreed.

C. Brady asked about conditions prior to the drawing up the decision. Attorney Naughton stated she has taken note through the public hearing of what the board will require, including and not limiting to the house being on septic and well. In addition, the applicant will have to go to the Building Department for any additional and necessary approvals. C. Brady then stated he would like the decision to state due to the thruway cutting through this lot, it will not set a precedence for future developers or structures of this magnitude receiving variances. Attorney Naughton stated that every decision that the board makes, sets a precedent but due to this property being incredibly unique due to the masonry walls, there would be different restrictions.

Motion was offered by K. Abrams, seconded by C. Brady, to request that council draw up a favorable decision based on the facts, findings, and discussions of the board. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

ADOPTED	AYES	3	Ungerer, Abrams, Brady
	NOES	0	

Mr. Levy asked if he was permitted to put up temporary tarping to protect what is there prior to winter setting in and destroying the exposed parts of the house. Chairwoman Ungerer asked Attorney Naughton if they were able to allow that and Attorney Naughton stated she will reach out to the Building Department to see what they say and what is allowed, she will also inform them that Mr. Levy will be calling to request it.

8. Board Member Comment

K. Abrams, C. Brady and Attorney Naughton wished Chairwoman Ungerer a Happy Birthday. K. Abrams, then wished all of the board members as well as everyone in the Village of Woodbury a very happy and healthy holiday season.

9. Adjournment

With no further business to discuss, a motion was offered by K. Abrams, seconded by C. Brady, to adjourn the meeting at 8:07 PM. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

ADOPTED	AYES	3	Ungerer, Abrams, Brady
	NOES	0	

Jessica McClennan, ZBA Secretary