

Minutes of the Zoning Board of Appeals Meeting held on September 13, 2023, at 7:30 PM

Present: Craig Brady, Chairman  
Rachel Bruce, Edward DeJesus Jr., Michael Wozniak, Beverly Silvera

Absent:

Also Present: Attorney Ashley Torre

Chairman Brady opened the meeting with the pledge of allegiance and stated the next meeting will be held October 11, 2023.

**1. Executive Session:**

**2. Approval and Acceptance of Previous Minutes:**

Motion was offered by E. De Jesus Jr., seconded by M. Wozniak, to approve and accept the minutes of the meeting held on August 9, 2023 . Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Brady, DeJesus Jr., Wozniak, Silvera
	NOES	0	
	ABSENT	1	Bruce

**3. New Business:**

**4. Action on Decisions:**

**5. Public Hearings -**

**A. Kolakowski –**

Continuation of Public Hearing requesting variances for the construction of an impervious surface parking area. Whereas pursuant to Section 310-7, the maximum impervious surface coverage permitted is 35%, and the property currently exceeds 35%; and whereas pursuant to Section 310-40(A), four (4) parking spaces are required, and it is unclear how many are provided; and whereas pursuant to Section 310-40(E), no off-street parking shall be permitted within a required front yard in any district, and parking is proposed within the front yard; and whereas pursuant to Section 310-42(A), parking is required to be at least ten (10) feet away from the street, and it is unclear how far the parking stalls are from the street. Said property is located in the HB Zoning District at 528 Route 32 in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 220, Block 5, Lot 20.

Mr. Richard P, the attorney for the applicant, stated they submitted a survey and provided a letter. He stated he feels that it is a preexisting use and the only thing the applicant did was change the existing driveway from gravel to concrete. Chairman Brady stated the board has many concerns and requested that the applicant submit documentation that it was a pre-existing use prior to the zoning law changing. The Board also stated when looking on Google Earth, there appeared to be a tree in the middle of the existing driveway. The applicant then stated they may have to have the driveway loop around the house if they were not granted the variance. Chairman Brady stated the applicant might have to go in front of the Planning Board for approval if they were to grant the variance, because they would have to weigh in on the use of the curb cut that is there. Chairman Brady then stated that the board has concerns about the entire front yard being used for parking especially since it is so close to the sidewalk and Route 32. The board requested that the applicant re-submit the survey showing the driveway being ten feet away from the street, the slope that the residents use instead of the curb cut, as well as the responses to the five questions.

E. De Jesus Jr., made a motion, seconded by B. Silvera, to carry over the public hearing until the October 11, 2023, meeting. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Brady, DeJesus Jr., Wozniak, Silvera
	NOES	0	
	ABSENT	1	Bruce

**B. Rittger –**

Public Hearing of the application of Elke and Walter Rittger requesting a variance for the construction of a solid six (6) foot fence in the side yard. Whereas pursuant to Section 146-5(B), no fence shall be more than four (4) feet in height in any side yard, and pursuant to Section 146-7(A), no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than 50% solid. Said property is located in the R-2A Zoning District at 45 Florance Drive in Central Valley and is known on the Village of Woodbury Tax Maps as Section 226 Block 1 Lot 74.15.

Mr. Walt Rittger stated that he was requesting an area variance. He stated that in 2018 a fence was erected and that he planned to do the same on the other side of the house, however other projects came up and he had to complete those projects. The pandemic caused delays and when he applied for this variance, he couldn't locate the original C.O. He then stated that the application expired, and he is applying for a permit and variance for the original fence that was approved by the ZBA board in the past as well as the new fence. He then stated the 38-foot section on the left of the house, the new fencing would be the 25 feet from the house to the shed, then 40 feet from the shed to the garden and on the other side of that is a 10-foot section before the drainage ditch, bringing the total of about 75 feet of additional fencing.

**R. Bruce joined the meeting at 7:52PM**

R. Bruce made a motion, seconded by E. De Jesus Jr. to open the application to the public. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

With no comments from the public Chairman Brady made a motion, seconded by E. De Jesus Jr., to close the public hearing. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

A motion was made by E. De Jesus Jr., seconded by M. Wozniak, to type this action a type 2 unlisted action under SEQRA. The 239 was also received from the County in which it states it is up to local determination. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

**C. Ideal Design/ 20 Blueberry-**

Public Hearing of the application of Lazer Lebovitz requesting variances for the construction of a single-family dwelling. Whereas pursuant to Section 310-43.1, nonconforming lots of record located in the R-2A district are required to have a minimum lot width of 100 feet, a minimum side yard setback of 30 feet, a minimum setback for both side yards of 60 feet, and a maximum lot coverage of 20%. Said

property is located in the R-2A Zoning District at 20 Blueberry Lane in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 217, Block 2, Lot 3.

Ideal Design, Mr. Stein was there on behalf of the applicant. He stated the house is a pr-existing, non-conforming lot. He stated that it will be rebuilt in the exact same footprint, exact same setbacks, size, and layout. They are just demolishing the existing building, but they are keeping the same footprint with the same bedrooms and bathrooms.

Attorney Torre stated this application falls under the code for provisions for undersized lots due to revisions to the zoning code making them non-conforming, so there are reduced full requirements for this lot. Upon further review the applicant only needs two variances, being the required side yard which they are required to have 60 feet and they have 34.4 feet. Chairman Brady stated that seems to not be as significant as was it thought. E. De Jesus Jr. asked if the house would be taller, Mr. Stein stated yes, and they are going to be redoing the foundation as well. B. Silvera asked since the house will be made taller, would it block the view of an exiting neighbor. Mr. Stein stated that there is not much of a view in that area and that it will only be about seven feet taller. Chairman Brady asked if the pool was staying as is, and the applicant stated yes as well as the pool the well and the septic will remain the same.

R. Bruce made a motion, seconded by B. Silvera, to open the application to the public. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

With no comments from the public Chairman Brady made a motion, seconded by E. De Jesus Jr., to close the public hearing. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

A motion was made by Chairman Brady, seconded by E. De Jesus Jr., to type this action a type 2 unlisted action under SEQRA. The 239 was also received from the County in which it states it is up to local determination. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

#### **D. Woodbury Commons Pylon Sign-**

Public Hearing of the application of Premium Outlet Partners, L.P. requesting variances for the construction of a pylon sign from Village Code Sections 310-30(D)(2)(a), relative to the width of sign permitted in the IB and LIO districts. Said property is located in the IB and LIO Zoning Districts along Red Apple Court in Central Valley and is known on the Village of Woodbury Tax Maps as Section 225, Block 1, Lot 70.2.

**Applicant withdrew application.**

### **6. Deliberation**

#### **A. Valdes –**

Discussion 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 CV and is known on the Tax Maps as Section 226 Block 1 Lot 37.221.

Attorney Torre stated that the 25 percent limitation of the existing dwelling for an accessory or additional dwelling unit cannot exceed 25 percent of the floor area of the existing dwelling. The

calculations were submitted, and the existing dwelling is 2242 square feet and the structure where the new unit is proposed is 537 square feet and then there is a breezeway as well. After confirmation with the Building Inspector the way this application is proposed the breezeway wouldn't be counted towards that 25 percent limitation so it would meet that restriction. She then stated that in addition to the special permit the board still would have to consider two area variances. The first being for the required lot area – which two acres are required, and they only have one, the second for the required rear yard which requires a minimum setback of 50 feet, the applicant only has an existing rear yard setback of 29.8 feet.

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 Board stated that there is no impact.**
2. *Can the benefit you seek be achieved by some other feasible method other than variance?* **The Board stated she has no other option and no other choice.**
3. *How substantial is the variance that you are requesting?* **The Board stated it may be numerically significant, but it is a pre-existing lot and in the long run is not substantially significant.**
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 Board felt that there was no impact.**
5. *Is the alleged difficulty self-created?* **The Board stated it is self-created, but it doesn't preclude them from receiving the variances.**

**The Board**

A motion was made by E. De Jesus Jr., seconded by R. Bruce, to have the Zoning Board of Appeals Attorney draft a decision consistent with the facts and findings of the Zoning Board of Appeals. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

**B. Rittger**

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 granting of this variance should in no way negatively impact the neighborhood or nearby properties. **The Board Agreed.**
2. *Can the benefit you seek be achieved by some other feasible method other than variance?* The applicant stated: No, unfortunately not. The rest of the fence must match what is already there. In addition, a standard four-foot fence would not provide our daughter with the privacy and security that would benefit her best, due to the backyard being uphill from the road and driveway. **The Board Agreed.**
3. *How substantial is the variance that you are requesting?* The applicant stated: We are requesting a variance from the standard four feet high fence to a height of six feet. As we have a fairly large parcel of land, that is set back from the road significantly and partially obscured by the trees, this height increase will not seem substantial or aesthetically displeasing from the street view. **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: No. the granting of the variance should not have any adverse effects or impacts physically, environmentally, or in character. **The Board Agreed.**
5. *Is the alleged difficulty self-created?* The applicant stated: No. Our daughter’s safety, security and privacy are related to her developmental needs. The need to match the existing fence that had prior approval is a situation that we created, but ultimately due to our daughter’s needs. **The Board Agreed.**

A motion was made by R. Bruce, seconded by M. Wozniak, to have the Zoning Board of Appeals Attorney draft a decision consistent with the facts and findings of the Zoning Board of Appeals. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

**C. Ideal Design/ 20 Blueberry**

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 house will be rebuilt on the existing footprint as it is now. **The Board Agreed.**
2. *Can the benefit you seek be achieved by some other feasible method other than variance?* The applicant stated: No, the lot and the house are nonconforming. **The Board Agreed.**
3. *How substantial is the variance that you are requesting?* The applicant stated: It is not substantial at all; it is just a request to rebuild a house on the same footprint. **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: No. **The Board Agreed.**
5. *Is the alleged difficulty self-created?* The applicant stated: No, they are just looking to rebuild a very old house. **The Board disagreed, it is self-created, but does not preclude them receiving the variances.**

A motion was made by E. De Jesus Jr., seconded by M. Wozniak, to have the Zoning Board of Appeals Attorney draft a decision consistent with the facts and findings of the Zoning Board of Appeals. Chairman Brady conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

**8. Adjournment**

With no further business to discuss, a motion was offered by Chairman Brady, seconded by B. Silvera, to adjourn the meeting at 8:27 PM.

<b>ADOPTED</b>	AYES	5	Brady, Bruce, DeJesus Jr., Wozniak, Silvera
	NOES	0	

Jessica McClennan, ZBA Secretary