

**VILLAGE OF WOODBURY
PLANNING BOARD MEETING**

MARCH 20, 2013

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VILLAGE OF WOODBURY

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**VILLAGE OF WOODBURY
PLANNING BOARD MEETING**

MARCH 20, 2013

PRESENT: M. Hunter, Chairperson
M. Christman
R. Anzalone
R. Cataggio

D. Lindsay
S. Turner
J. Echevarria
J. Kirby

ABSENT: C. Correia

Chairperson Hunter opened the meeting with the Pledge of Allegiance and a moment of silence for our Armed Forces and all others in harm's way. She then welcomed everyone, and introduced the Board members and Consultants.

MINUTES

M. Christman made a motion to accept the minutes from the meeting of March 6, 2013.
R. Anzalone seconded the motion. The vote was as follows:

M. Hunter – In Favor
M. Christman – In Favor
C. Correia – Absent
R. Anzalone – In Favor
R. Cataggio – In Favor

Chairperson Hunter informed the Board that there have been some recent changes to the telecommunications law. She has authorized the attorney to draft a letter to the Village Board informing them of these changes, and requesting that they revamp our current telecommunications law.

Chairperson Hunter also informed the Board that on March 19th she had received a letter from P. Grealey regarding the Woodbury Common right-of-way for the Thruway property. She said this is moving along and it appears that the second option for Marigold Court (which was the one preferred by the Board) will be able to move forward.

REGULAR AGENDA

PINE RIDGE ESTATES – TAX MAP 213-1-4 & 5

Chairperson Hunter explained that this was a request for an extension for a preliminary approval of a six lot subdivision located off Schunnemunk Road in Highland Mills.

PINE RIDGE ESTATES – TAX MAP 213-1-4 & 5 (cont.)

Mr. Horowitz, the applicant, appeared on his own behalf and explained that he is asking the Board for an extension of his approval, as he is still awaiting approvals from other agencies. After some discussion, Chairperson Hunter made a motion to extend the preliminary approval for this application to April 2, 2014. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – Absent
- R. Anzalone – In Favor
- R. Cataggio – In Favor

DOM'S CUSTOM HOMES /ARB – TAX MAP 225-3-31,32,33 & 34

Chairperson Hunter explained that this was to be a review of additional materials submitted for ARB approval of single family home styles and materials for lots located in Phase 4 of the previously approved subdivision known as Woodbury Junction. Pursuant to Village of Woodbury Code Section 8-4, dwellings located within an area designated as a critical environmental area are subject to the Village regulations for ridge preservation (310-13). The property is located on Dunderberg and Nininger Roads in Central Valley.

Joanne Gross appeared on behalf of Dom's Custom Homes and displayed the additional materials for the Board, showing colors for stucco.

Chairperson Hunter began a discussion regarding the fact that certain home styles had been designated for certain lots. She asked the applicant if it was their intention that only these home styles could be built on these lots. Mr. Gross said that was the intention, as the homes have been chosen to fit each lot. She added that the homes were actually variations of the same style house.

With regard to the stucco colors, the Board was not in favor of STO White and ITS white. These colors will be removed from the approved list. The Board then looked at colors for Woodman Select siding. White and Wedgewood have been eliminated from this list. For the Hand-Split Shake siding, the colors Barn Red and Forest Green will not be allowed. Ms. Gross also said that the tin option has been eliminated for the roofing. All other roofing materials and colors remain the same as last time. The stone that was proposed at the last meeting will also remain the same.

Chairperson Hunter then asked D. Lindsay for any comments he may have. He reminded the Board that they had authorized a public hearing for this application at the last meeting, providing all materials had been submitted in a timely manner. This was not the case, so the Board will need to reset a date for a public hearing on this application.

DOM'S CUSTOM HOMES/ARB - TAX MAP 225-3-31,32,33 & 34 (cont.)

D. Lindsay also was concerned about the 35' height requirement for the homes. Ms. Gross said the height of the homes would be 30'6", but will confirm this.

Chairperson Hunter then asked S. Turner for his comments. S. Turner said that he recalled that a lot of time was spent on conserving vegetation in certain areas of this development when the original SEQRA was done. He said that on lot 60 (34) there is an area of vegetation which is not to be disturbed. He said they will be putting a driveway through this area. He felt that this was something that G. Thomasberger should be aware of when issuing building permits. He also said he thought that this area of vegetation was over a water tank, and any driveway clearing should not include a wide swath through the vegetation. He was not sure if this was something that should be noted in the resolution. D. Lindsay pointed out that the issue in question was a condition of the original resolution of approval for the entire subdivision, therefore, for this applicant it would be a field matter to be handled by the Building Department. He added that if any replanting needed to be accomplished it would be the responsibility of the original developer of the entire subdivision.

After some further discussion R. Anzalone made a motion to schedule a public hearing for this application for April 3, 2013. M. Christman seconded the motion. The vote was as follows:

M. Hunter – In Favor
M. Christman – In Favor
C. Correia – Absent
R. Anzalone – In Favor
R. Cataggio – In Favor

Chairperson Hunter made a motion to reaffirm the prior SEQRA that was done for the original application for this subdivision. R. Cataggio seconded the motion. The vote was as follows:

M. Hunter – In Favor
M. Christman – In Favor
C. Correia – Absent
R. Anzalone – In Favor
R. Cataggio – In Favor

Chairperson Hunter then made a motion to authorize the attorney to prepare a draft resolution of approval for this application. M. Christman seconded the motion. The vote was as follows:

M. Hunter – In Favor
M. Christman – In Favor
C. Correia – Absent
R. Anzalone – In Favor
R. Cataggio – In Favor

DOM'S CUSTOM HOMES/ARB - TAX MAP 225-3-31,32,33 &34 (cont.)

J. Echevarria noted that there is a requirement in the code that a sketch superimposed on a photo be submitted for ridge preservation review. She said that there have been sketches submitted under the original SEQRA and, if the Board feels that these homes are similar to the ones that were originally submitted, they can waive this requirement. The Board members agreed to waive the requirement. This will be noted in the resolution of approval.

PANERA/HARRIMAN COMMON PAD SITE 5 - TAX MAP 225-1-16.13

Chairperson Hunter read the Notice of Public Hearing that appeared in the Time Herald Record. She then noted, for the record, that a letter was received today from Michael Donnelly, attorney for the Town of Monroe Planning Board, which said that on March 12, 2013 the Planning Board took up consideration of the e-mailed NN 239. It went on to say that only 12% of the lot is within the Town of Monroe and consists of a portion of several parking spaces. Therefore, the Town of Monroe Planning Board declined to exercise precedence over this project and voiced no objection to the Village of Woodbury being the sole permitting agency on the site plan.

Chairperson Hunter then asked the applicant to give a brief overview of the project for the benefit of any members of the public present. Dawn Kalisky of Lanc & Tully Engineering appeared on behalf of the applicant. She introduced Lowell Farkas, who is the franchisee for the proposed Panera Bread at Harriman Common Pad Site 5, in the vacant portion of the former Provident Bank building. Panera Bread will be sharing the building with the existing 1200 square foot dental office. The Panera Bread portion of the building will consist of 2400 square feet. A 1260 square foot addition is being proposed consisting of 1200 square feet in the front and a 60 square foot drive through window. Ms. Kalisky said that the modifications to be made to the site are minimal so as to provide the requisite parking. With regard to parking, Ms. Kalisky said the site is somewhat shy of parking spaces in accordance with the code. However, at the last meeting the Planning Board approved a reduction in the parking requirement based on the uses that are on the pad site.

Ms. Kalisky explained that they will be eliminating the bank drive-through area and will have outdoor patio seating in this location. There will be indoor seating as well. This will be one of the few Panera Bread locations in the Hudson Valley that has a drive-through facility. She added that they will be reducing the amount of impervious area on the site, while adding some landscaped areas. Finally, she said that elevations have been provided to show what the building will look like.

Chairperson Hunter then asked D. Lindsay for his comments. D. Lindsay said that he had given comments previously and the applicant has taken them under advisement. A number of changes were made that were requested. He had a concern regarding the parking bumpers. Ms. Kalisky said these would be removed on the next submission.

PANERA/HARRIMAN COMMON PAD SITE 5 - TAX MAP 225-1-16.13 (cont.)

D. Lindsay wanted to discuss the signage. He said it was his understanding that the applicant will take advantage of their non-conforming status on all the wall signs. Ms. Kalisky said this was correct. D. Lindsay said the Board will still have ARB review for colors and lettering. Ms. Kalisky said that the proposed signs are 52.5 square feet in size and will be located in the center of each side of the building. She asked for some latitude in placing some of the signs, particularly the one on the North Elevation fronting on Larkin Drive. This is where the main entrance door will be located for Panera Bread. They would like to place the sign over the entrance door, rather than where it is currently located, which is closer to the rear of the building. She was not sure if they were locked into the existing locations of the signs. D. Lindsay noted that most of the existing signs are 89 square feet in size. These will be reduced to 52.5 square feet. He felt the placement of the signs on the building would be up to the discretion of the Planning Board.

Chairperson Hunter then asked S. Turner for his comments. S. Turner said he had very few comments, but did feel that the parking table on the plan should reflect the 46 required spaces, and then the 34 that the Board has agreed to.

As far as landscaping, S. Turner said the applicant has responded to his comments and has done their best to preserve what currently exists.

With regard to SEQRA, S. Turner said that this would be a Type Two action because of the size of what is being added. However, if a variance is required for any of the signage, it would become an Unlisted Action. He said the Board could move forward as a Type Two, and revisit SEQRA at a later date if necessary. J. Echevarria said she had spoken to R. Golden about this and he agrees that it could be a Type Two. She said there is no variance for the signs because the signs were approved and then the code changed. This means they have non-conforming status under the code. This makes them consistent with the code.

With regard to the lot coverage, J. Echevarria said there is a 65% maximum lot coverage permitted under a declaration of covenant for the whole Harriman Business Park. She said there can be a condition in the resolution that, prior to building permit, the applicant confirm that the changes will not exceed the 65% for the whole park. Ms. Kalisky pointed out that they will be decreasing the impervious surface by 1200 square feet. She felt confident that the 65% coverage will be satisfied.

There was some discussion regarding some of the conditions that will be in the resolution regarding the outdoor seating, as well as a letter from the owner of Pad Site 5 stating that they are aware of all the conditions from the prior resolution of approval and they will comply with those conditions. Also, the automatic renewal of the special permit, and no storage in the shared access area were discussed.

PANERA/HARRMAN COMMON PAD SITE 5 - TAX MAP 225-1-16.13 (cont.)

At this point Chairperson Hunter opened the floor for public comments and questions. There were no comments or questions from the public, so M. Christman made a motion to close the public hearing. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – Absent
- R. Anzalone – In Favor
- R. Cataggio – In Favor

R. Cataggio then made a motion to authorize the attorney to prepare a draft resolution of approval. M. Christman seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – Absent
- R. Anzalone – In Favor
- R. Cataggio – In Favor

It was noted, for the record, that all Board members declared this to be a Type Two action under SEQRA. The application will be placed on the agenda for April 3rd for a review of the resolution.

SPRINT NEXTEL/CEMETERY OF THE HIGHLANDS - TAX MAP 218-2-2

Chairperson Hunter explained that this was to be a review of proposed modifications for replacement of six existing antennas with the installation of three additional panel antennas as well as two related equipment cabinets at the existing telecommunications facility located within the Cemetery of the Highlands. The property is located at 640 Route 32 in Highland Mills, within the R2A zoning district. She then asked the applicant to give the Board a brief overview of the proposal.

Cara Bonomolo, an attorney with the law firm of Snyder & Snyder, appeared on behalf of Sprint. She said that Sprint is seeking approval to modify its existing wireless telecommunications facility located on the existing tower at the Cemetery of the Highlands. The modification will consist of replacing six existing panel antennas with three panel antennas on the existing monopole, thereby reducing the number of overall antennas, as well as lowering the overall height of the antennas on the monopole. In addition, Sprint will be replacing its two cabinets located at the base of the pole with three cabinets. These will all be located on the existing previously approved platform.

SPRINT NEXTEL/CEMETERY OF THE HIGHLANDS - TAX MAP 218-2-2 (cont.)

Ms. Bonomolo then cited Section 6409 of the Middle Class Tax Relief Act which she said states that "local government shall approve any eligible facility's request for a modification of an existing tower that does not substantially change the physical dimensions of the existing tower". She went on to explain that the act does not define "substantially change the physical dimensions". She then referred to their cover letter which refers to the FCC's definition as a "substantial increase in size". She went on to say that the height of the existing monopole will not be increased, the number of Sprint's antennas will be reduced from six to three, the width of the monopole will not be substantially increased, and the proposed equipment will be located on an existing platform that will not increase the size of the equipment compound.

Ms. Bonomolo also noted that they had provided the Board with an RF Categorical Checklist demonstrating compliance with the FCC's requirements regarding radio frequency emissions, as well as a statement from Sprint's radio frequency engineering consultant explaining the need for the proposed modifications. A structural analysis was also provided to certify that the existing monopole has sufficient capacity to support all the modifications.

Chairperson Hunter then informed the Board that a letter was received on March 5th from the Orange County Department of Public Works referring this application back to the Planning Board. Also, a meeting was held on January 16th with the Planning Board Consultants, Ms. Bonomolo and Chairperson Hunter regarding this application. She then asked D. Lindsay for his comments. D. Lindsay said that he was not aware that there was a structural analysis provided. However, he said that there was a disclaimer on the drawings from the applicant's engineer stating that they had not inspected the site for structural analysis. Chairperson Hunter asked J. Kirby if he had received a copy of the structural analysis. He said he had not, so she gave him her copy. D. Lindsay also noted that this application would require a public hearing.

Chairperson Hunter asked S. Turner for his comments. He said only that this would be a Type Two action under SEQRA.

Chairperson Hunter then asked J. Echevarria for her comments. She said that she had spoken to R. Golden about this application and they believe that the Planning Board process is legal and should continue. She said that until there is an official regulation from the FCC stating an actual definition of "substantial change in physical dimensions" the Board should continue to handle co-location applications as they have in the past.

J. Echevarria informed the Board that GML 239 was sent. However, because the property is not within any 500' triggers, the Board does not need to wait for the Department of Planning to respond before moving forward with this application. She agreed that this is a Type Two action. She also agreed that this will be subject to a public hearing. She said that there are some provisions in the wireless code that are usually waived. The first item was 310-38B6T which requires that there be no interference by the applicant's equipment with any of the Emergency

SPRINT NEXTEL/CEMETERY OF THE HIGHLANDS - TAX MAP 218-2-2 (cont.)

Services equipment. Applicants usually will say that they are not going to interfere, but if any interference occurs, they will cooperate with the Village to fix it. She said that Ms. Bonomolo assured her that Sprint would be amenable to this. The next item was 310-38B9, which requires that the applicant provide written certification that the facility will be constructed to meet all Federal, Local and State requirements. J. Echevarria said this could be waived, but that it would be up to J. Kirby to advise the Board on this. The next item was 310-38B10 and 11. This requires a long form EAF and a visual EAF addendum. This has not been required for Type Two actions, so the Board usually waives this requirement. The last one was 310-D21 which requires that the application be sent to the adjacent municipalities and the Orange County Department of Planning. This is not adjacent to any other municipalities, so this can be waived as well.

Chairperson Hunter then asked J. Kirby for his comments. He said he had reviewed the application and issued a letter to the Chair on March 14th. In response to the statement regarding the size of the antennas, J. Kirby said that, although the proposed new antennas are considerably shorter than the existing antennas, they are substantially wider. Therefore, he said that the bulk of the antenna configuration is not actually reduced, but slightly increased. J. Kirby noted that he had just received the structural analysis which appears to indicate that the structure has enough capacity, but he said he would prefer to review this further before giving the Board an answer. He said he is still waiting to receive the maintenance records for the structure, as was discussed in the pre-application meeting. J. Kirby also said that there will be a new railing on the platform which will increase the visual impact, but he believes that the overall visual impact of this application will be very small.

J. Kirby said that the application also describes the installation in a manner that makes it clear that it will be similar to the installation on Maher Lane. He believed it was to be done in two phases, although he said the application does not specifically describe this two-step process. Ms. Bonomolo explained that, because they are replacing the platform and the antennas will have to be moved to do that there will be no interim antenna configuration.

J. Kirby said that the applicant makes a statement on the drawing that the existing coaxial cable will be removed and the new cables will go up inside the pole, as the existing cables are.

J. Kirby also said that the antennas are being redirected to point in a different direction. This has an impact on the coverage that is being provided from the site, which is not discussed in the letter from the RF Engineer. He asked for some clarification on this subject. He also recommended that copies of the structural inspection of the tower be supplied. He felt these should be available from the tower owner.

SPRINT NEXTEL/CEMETERY OF THE HIGHLANDS – TAX MAP 218-2-2 (cont.)

At this point Ms. Bonomolo wanted to respond to some of the items that J. Kirby had mentioned. She wanted to discuss the statement that the area of the antennas will actually be increased. Ms. Bonomolo said that, while the antennas are slightly wider, because they are reducing the number of antennas the area of the antennas will decrease. She said there are RH units that are included as part of the facility. These will be mounted behind the antennas, so they are not adding to the visible area. In addition, she said, the tower is 183' tall. J. Kirby stated that the potential visual impact from this modification is relatively small. It was Ms. Bonomolo's belief that when the Federal government passed the act she previously referred to, it was to allow installations like this to move forward with only an administrative approval and no significant application process. She said if this type of modification and installation is not one that falls within the purview of the act, then the act is almost meaningless because she did not know what other type of modification would come along that fits within the purview of the act. She noted that they are not increasing the height of the tower, they are reducing the height and overall number of antennas, and they're not expanding the compound. She felt that this is the type of modification that the new Federal law was intended to protect.

Chairperson Hunter then asked J. Echevarria for her opinion on Ms. Bonomolo's comments. J. Echevarria said that the Board's Wireless consultant and G. Thomasberger have made a determination that these antennas do change the dimensions of the tower. Therefore, the Board is past that stage and is now doing a Planning Board review within the code which requires site plan and special permit review. She said if the Board wants to waive certain things because their consultant says they are not necessary for this application they can do so.

There was some discussion regarding all of the above comments, and whether or not the Planning Board would be reviewing this application and holding a public hearing. After a poll of the Board members it was decided that, on the advice of the consultants as well as the Building Inspector, a public hearing will be held on this application.

After some further discussion, M. Christman made a motion to schedule a public hearing on this application for April 3, 2013. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – Absent
- R. Anzalone – In Favor
- R. Cataggio – In Favor

SPRINT NEXTEL/CEMETERY OF THE HIGHLANDS - TAX MAP 218-2-2 (cont.)

Chairperson Hunter then made a motion to authorize the attorney to draft a resolution of approval for this application. M. Christman seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – Absent
- R. Anzalone – In Favor
- R. Cataggio – In Favor

The Board was also in agreement that this will be a Type Two action under SEQRA.

1051 CORP. - TAX MAP 207-1-10.2

Chairperson Hunter explained that this was to be a review and discussion of a revised project application and plan for a proposed 3-lot subdivision located on Route 32 and Hazzard Lane in Highland Mills. She then asked the applicant to give the Board an overview of the project.

Jim Raab of Talcott Engineering appeared on behalf of the applicant and explained that this is an 11.6 acre parcel that was originally brought in before the Board as Unique Developers. He reviewed all the information that had been brought to the Board by Fine Associates, as well as the Consultant's remarks about those submissions, and felt that the best thing to do would be to get the lots under control based on the net lot area definition in the zoning. Taking all the formulas in the Village zoning, he found that they could only get three lots. The lots are now 3.8 acres, 2.22 acres and 5.41 acres. Mr. Raab said they have a rough idea where the driveways are going to go, which are basically in the same locations that were reviewed by the DOT. He said that tonight they would like to get permission to do testing so they can finalize the locations of the houses and the septic systems.

Chairperson Hunter wanted to acknowledge, for the record, that the Orange County Department of Planning issued a local determination decision today, March 20th, and the Orange County Department of Public Works said there is no impact on any County road or County owned property, so it was referred back to the Planning Board. This decision was received on March 11th.

At this point Chairperson Hunter asked D. Lindsay for his comments. D. Lindsay said that the applicant did a very good job with the lot area definition. He agreed that it was properly analyzed. He said the applicant has shown the house locations, but in the past the Board has given some flexibility with a plus or minus ten foot leeway on these locations. He said if this was not enough, the applicant could ask the Board for more if necessary.

1051 CORP. - TAX MAP 207-1-10.2 (cont.)

There was some discussion regarding the witnessing of the soil testing for the septic.

D. Lindsay noted that G. Thomasberger usually witnesses these tests, although he sometimes asks D. Lindsay to be in attendance as well. The applicant was okay with this.

D. Lindsay informed the applicant that he would need a soil erosion sediment control plan at some point. He also had some questions regarding the survey of the property. Mr. Raab said he can have his surveyor explain it, or put it in writing.

Chairperson Hunter asked S. Turner for his comments. S. Turner said he had submitted a memo to the Board. He added that the EAF that was submitted indicates that water and sewer are available. Mr. Raab said he would make sure this is changed.

S. Turner noted that the regulations require a tree survey. He said the Board could limit the tree survey to the areas to be cleared. Mr. Raab said they usually do limits of disturbance and within the limits of disturbance he would show the trees that are going to be removed.

S. Turner said there is no record that SEQRA has been started. He informed the Board that they could declare this an Unlisted Action to begin the SEQRA review.

Chairperson Hunter had some questions and corrections for the EAF which were discussed. She then asked J. Echevarria for her comments. J. Echevarria said that this is a minor subdivision, so the Board has the right to waive some of the provisions in the subdivision regulations. She said the applicant is requesting both preliminary and final approval, so when the Board believes that the plat is in final form they should schedule a public hearing. The public hearing needs to be held within 45 days of the receipt of the plat in final form.

There was some discussion regarding the driveway locations. Chairperson Hunter wanted to be sure that the applicant was going to pave the driveways. Mr. Raab said they would.

There was a discussion regarding the home that is facing Hazzard Lane. Chairperson Hunter was concerned about Emergency Services and 911. D. Lindsay said this will be researched to see what 911 has to say. Mr. Raab said they could turn the house because the driveway has to be located on Hazzard. He said it would be extremely difficult to have a driveway onto Route 32.

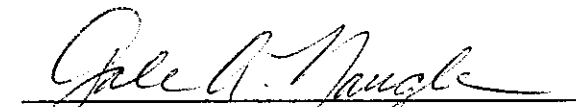
Chairperson Hunter then noted that all future correspondence for this application will refer to it as 1051 Corp.

There was no further business for the Board to conduct, so M. Christman made a motion to adjourn the meeting. R. Anzalone seconded the motion. The vote was as follows:

M. Hunter – In Favor
M. Christman – In Favor
C. Correia – Absent
R. Anzalone – In Favor
R. Cataggio – In Favor

The meeting was adjourned at 9:25 p.m.

Respectfully submitted,


Gale A. Naugle
Planning Board Secretary

