

Village of Woodbury  
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**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING  
AUGUST 21, 2013**

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**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING**

**AUGUST 21, 2013**

PRESENT: M. Hunter, Chairperson  
R. Anzalone  
C. Scibelli  
R. Cataggio  
D. Lindsay  
S. Tumer  
R. Golden  
G. Lahey

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 throughout the world. She then introduced the Board members and Consultants.

**CARRYOVERS & RESOLUTIONS**

**1051 CORP/HAZZARD LANE - TAX MAP 201-1-10.2**

Chairperson Hunter explained that this was to be a review of a resolution for a proposed 3 lot subdivision located at Route 32 and Hazzard Lane in Highland Mills. R. Golden suggested that she begin by reading the finding on page 4 regarding the conservation easement, and the applicant's offer to construct a stone wall to protect the existing Ford family burial site from future construction and/or disturbance. After reading this finding, Chairperson Hunter proceeded to review the Specific Conditions of the resolution. After the review, R. Anzalone made a motion to accept the resolution. C. Scibelli seconded the motion. The vote was as follows:

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

## **REGULAR AGENDA**

### **AT & T NEW CINGULAR/ARDEN – TAX MAP 233-1-6**

Chairperson Hunter explained that this was to be a discussion of a proposed extension of an existing tower by 15' and collocation of 12 antennas on the tower with associated equipment shelter on property located on Arden House Road. John Furst appeared on behalf of the applicant and explained that at the meeting two weeks ago the Board had scheduled a public hearing for September 4<sup>th</sup>. He said there was a discussion as to whether a balloon test needed to be conducted. He again voiced his opinion that the balloon test should not be required, as photo simulations had been provided. D. Lindsay pointed out that the Board members were to use the last two weeks to look for themselves and see if they thought a balloon test would be needed. There was also the issue of whether or not this was a new tower. A new tower would require a balloon test. If the Board did not think the balloon test would be beneficial, D. Lindsay said the new tower versus existing tower issue would go away. R. Golden agreed. He said the code is not clear whether brand new means from the ground up, or a new section on top of an existing transmission tower. This would need an interpretation from G. Thomasberger, as the Planning Board does not have the ability to make interpretations of the code.

There was a lengthy discussion among the Board members as to whether or not they felt a balloon test would be necessary. R. Golden assured the Board that waiving the balloon test for this application would not preclude the Board from requiring one for future applications for this same tower. After some further discussion Chairperson Hunter made a motion that the Planning Board does, in fact, believe that there is no need for a balloon test and, therefore, will be waiving that requirement of the code to the extent that it is applicable. C. Scibelli seconded the motion. The vote was as follows:

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

R. Golden noted that there is a requirement in the code that adjacent municipalities should be notified, unless the Board wants to waive that requirement also. The Board members decided not to waive this requirement.

R. Golden also pointed out that there is a provision in the code requiring all cables to be installed underground. The Board has the ability to waive or vary this requirement as well. Mr. Furst noted that the site is very secluded and surrounded by trees. Also it is not very accessible. He asked that the Board waive this requirement. G. Lahey agreed that there would not be a significant visual impact from the cables in this location. D. Lindsay also agreed.

**AT & T NEW CINGULAR/ARDEN – TAX MAP 233-1-6 (cont.)**

The Board members also agreed, so Chairperson Hunter made a motion to waive the requirement that the cables should be located underground. R. Anzalone seconded the motion. The vote was as follows:

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

G. Lahey noted that in J. Kirby's letter of July 8<sup>th</sup> he recommended that a revised structural modification report be submitted in accordance with TIA 222G, using a basic wind speed of not less than 90 miles per hour with the applicable topographical plats. Mr. Furst thought that New York State was using revision F because G had not been adopted yet. G. Lahey said that J. Kirby was recommending that G be used because of the location of this tower at a higher elevation, which would require that the topography be shown.

At this point Chairperson Hunter noted for the record that on August 7<sup>th</sup> Maria Rubio sent out the GML to the Orange County Department of Planning and Department of Public Works. The DPW responded on August 19<sup>th</sup>. Nothing has been received yet from the Department of Planning. If a response is not received prior to the public hearing on September 4<sup>th</sup>, Chairperson Hunter said the Board would not be able to act on this application at that time. Mr. Furst said that was fine. D. Lindsay also noted that there were to be some revisions to the EAF which have not yet been submitted. He said the application needs to be complete, and the EAF is part of the application, and should have been submitted today.

After some further discussion R. Anzalone made a motion to authorize the attorney to prepare a draft resolution of approval for this application. C. Scibelli seconded the motion. The vote was as follows:

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

**AT & T NEW CINGULAR/MAHER LANE - TAX MAP 225-1-10.421**

Chairperson Hunter explained that this was a continuation of a public hearing for proposed replacement of 2 panel antennas on an existing monopole, related equipment shelter and various equipment modifications within an existing fenced compound on property located at 101 Maher Lane in Harriman. She said the hearing had been continued so the Board could receive some clarification from G. Thomasberger regarding unused antennas. R. Golden cited a letter from G. Thomasberger in which he says that the applicant must provide specifics for keeping an outdated or unused antenna in place. John Furst appeared on behalf of AT & T and said that they will now be removing three antennas as part of this application because the structural analysis that was done contemplates AT & T having 9 antennas. They currently have 12. They will still be swapping out two antennas for the larger LTE antennas, but in addition to that they will be removing 3 antennas. He added that, in essence, they are making their proposal and their drawings match the structural analysis. The updated structural analysis does not require any tower or foundation modifications.

At this point R. Golden explained that the applicant had e-mailed a revised application yesterday. However, the Board members did not receive the application until today. Therefore, the Board could not consider this application tonight. He said he would not object to some of the structural issues being left as conditions that needed to be met to the satisfaction of the wireless consultant. He added that he was not sure if they were removing all of the unused antennas or some will remain. They will need to demonstrate to G. Thomasberger that all of the remaining antennas are being used in some form or fashion to satisfy the condition in the resolution.

Chairperson Hunter opened the floor for public questions and comments. There were none. She then asked the Board members if they had any questions. R. Cataggio felt that the wireless consultant should be given time to review the revised application. He also asked what would happen to the Board's time limit for approving the application if they are now considering a new application. He also asked if there was a signed property owner endorsement for this application. R. Golden said the applicant provided the most recent lease agreement which did authorize additional antennas to be placed on the monopole, so the owner authorization issue has been satisfied.

With regard to the resolution, R. Golden said the Board can go forward with approving the resolution tonight, or they can defer it until the next meeting so they will have the comments from their wireless consultant. He added that the clock starts anew when a substantial change is made in an application. He felt that this is applicable in this instance. Mr. Furst then said that the wireless consultant had some issues with the three extra antennas as well as the structural analysis. They provided a structural analysis and are removing the antennas as requested. He felt that they were being penalized because R. Golden was referring to this as a new

## **JJ WOODBURY LLC - TAX MAP 225-1-34.1**

Chairperson Hunter explained that this was to be a review of revised site plan and ARB materials submitted for a proposed mixed use commercial building located at 6 Locey Lane in Harriman. She then reviewed the materials that had been submitted and said that the Notice of Intent to become Lead Agency was circulated on June 5<sup>th</sup>. This was also typed as an Unlisted Action under SEQRA. She then asked R. Golden if the revised plans would need to be submitted again for GML, since the last ones were submitted in May. R. Golden said that it would be a judgment call from the Board. If they feel there have been substantial changes on the plan they could send it again. If not, he said there would be no need to send it.

Chairperson Hunter then asked the applicant to give the Board an overview of the project. Steve Esposito of Esposito Associates appeared on behalf of the applicant. He introduced Dave Higgins of Lanc & Tully Engineering and Chuck Dietz of Dietz partners who is the architect for the project. He also said the two principals of JJ Woodbury were in attendance as well. Mr. Esposito then explained that, at the meeting in June, he had gotten some input from the Board and the Consultants and made some key changes to the plan in response to those comments. One of the changes to the plan was the entrance. They previously showed two entrances on Locey Lane. They eliminated one of the entrances and now have one main entrance off of Locey Lane. There is still a service entrance across the street from the existing curb cut for the hotel. This entrance will also access the now proposed drive-thru for one of their tenants, as well as a through road.

At the previous meeting, R. Cataggio had suggested a second dumpster location at the northern side of the building. The new plan now shows two dumpster locations. One is at the northern side of the building and one is at the southern side of the building. The new plan also shows the location of the proposed drive-thru window. Mr. Esposito also said there were some changes to the ARB, which the Board will see later tonight.

Mr. Esposito said that they had been in contact with the DOT regarding the signal at the intersection of Locey Lane and Route 17/32. He then explained, for the benefit of the new Board member, the plan for the land swap that will take place with the future DOT improvements to Exit 131. He said they developed this plan knowing that this was going to happen, even though they are not sure when it will happen. They do not show any parking spaces in the land that will be involved in this land swap.

One of the things the Board has requested was that the applicant contact the Fire Department. Mr. Esposito said that there is now a document that shows how the largest piece of apparatus the Fire Department has can maneuver through the parking lot.

**JJ WOODBURY LLC - TAX MAP 225-1-34.1 (cont.)**

Mr. Esposito explained that R. Golden had brought up the question of whether or not this is a corner lot because, according to the code, if this is a corner lot it would be subject to two front yard setbacks. He said he asked G. Thomasberger to opine on the subject and his opinion is that the front yard is Locey Lane, and this is not considered a corner lot. However, G. Thomasberger did say that there is no parking in the front yard. Mr. Esposito said they have approximately ten parking spaces shown in the front yard area on this plan. He said they are prepared to make an application to the ZBA for relief from the front yard parking provision of the code.

Mr. Esposito then provided the Board with copies of an e-mail from Scott Geiger of the DOT. With regard to the timing of the light at Locey Lane, he said the department will work with the signalization phasing with the understanding that Route 17/32 receives priority. This e-mail was dated June 10<sup>th</sup>, and Mr. Esposito said he will make it part of a formal application.

Mr. Esposito also said that, at the request of the Board, they had met with the Highway Superintendent, who was very positive about this project. They also met with the Water and Sewer Superintendent. Mr. Esposito pointed out that there is an existing 12" water main at the intersection of Route 17 and Locey Lane, as well as a fire hydrant. He noted that this is the Village of Harriman's water system and said that they had met with the Village of Harriman in January to see if they would be interested in providing water for this project. He said that Lanc & Tully conducted a hydrant test to make sure there was adequate flow and pressure. It was Mr. Esposito's understanding that these test came out fine, but he said this could be discussed later in further detail.

At this point Charles Dietz, the architect for the project, gave his presentation of the renderings of the building. He explained that the building consists of brick and masonry at the base, and brick masonry piers between each storefront section and between each of the tenants. The signed areas will be constructed of a synthetic stucco material known as dryvit, with a cap or cornice at the top. He said they are proposing complying signage for each of the tenants. The sides of the building will be finished in the same materials, as they are visible from all sides of the property as well as the adjacent streets. They have proposed to have the storefront windows and awnings wrap around the sides of the building on both sides of the property because they are visible from the roadway system. The rear of the building will be split faced block, of a color to match the rest of the building.

Mr. Dietz said that all the rooftop mechanical units will be screened by parapets, which he showed the Board on the rendering.

With regard to the signage, Mr. Dietz said that all the signs will be at the same height on the face of the building all the way across the façade. There will also be decorative awnings to

**JJ WOODBURY LLC - TAX MAP 225-1-3-1.1 (cont.)**

provide shade and cover for the patrons when they come into the store. They will also provide an architectural esthetic with a different material and different color. Also, all the brick pilasters will have decorative wall sconces. They are proposing the storefront glass to sit on top of the knee wall at the base which protects the storefront. They will meet all the standards for tempered glass.

Mr. Dietz said that the freestanding sign that is shown on the site plan is a code compliant sign both in height and square footage. They simply added the sign to the rendering, as it was not depicted in the previous rendering. Also added to the rendering was a view of the proposed drive-thru.

David Higgins of Lanc & Tully Engineering and Surveying then gave his presentation regarding the water testing which Mr. Esposito had mentioned earlier. He said they did check the hydrant at the intersection of Locey Lane and Route 17, as well as the hydrant located across the road in Woodbury Centre. He said they floated approximately 1250 gallons of water and the pressure dropped from 62 psi to 60 psi, which is a very small drop in pressure. He said he later found out that the water is in a 12" loop system that actually loops around the back of Woodbury Centre, so there is plenty of pressure. He also said there is sufficient water for the project as well. Negotiations are still proceeding with the Village of Harriman.

With regard to the sewer, Mr. Higgins said he had met with the Village Sewer Superintendent, Bill McClennan, who went to the site and determined that the manhole that was believed to be part of an abandoned section of the main is, indeed, still connected and should meet the applicant's purposes in terms of a connection. Mr. McClennan did say that there may be some improvements that could be made to the main such as cleaning and cleaning the manholes, which the applicant could do as part of their project.

At this point Chairperson Hunter asked D. Lindsay for his comments. D. Lindsay said that the threshold issue for the Board now is the referral to the ZBA. He said that to have standing before the Planning Board the applicant would have to have a complying application.

D. Lindsay questioned the percent coverage and whether it would comply with the code. He said the land holdings that they now have, show a complying 64.7% maximum coverage in accordance with the code. He said that the applicant has shown what would happen after the land swap with the DOT, and this looks like about 66% coverage, which would be over the limit. He then deferred to R. Golden for a discussion as to whether they would need ZBA relief for this. R. Golden said that if this land swap is accomplished via negotiations with the DOT then the applicant would need to get a variance. However, if it is done via an eminent domain procedure where there's litigation put in place by the State to take the property, the applicant does not have to do anything because the lot became non-conforming by operation of the State. R. Golden added that one way to deal with this would be to somehow modify the current plan so that it would be complying even after the land swap occurs.



**JJ WOODBURY LLC - TAX MAP 225-1-34.1 (cont.)**

D. Lindsay suggested that, since the applicant needed to go to the ZBA anyway, they could ask the ZBA if they would consider a conditional variance for after the land swap occurs. This would be left to the applicant to decide. Mr. Esposito said they propose to request relief for this if and when the land swap happens. He said the other alternative is that they have a small area that could yield six parking spaces. This would provide a one percent reduction in impervious surface and the issue would be negated. D. Lindsay said that this will be within the applicant's discretion because they have a complying application before the Board now in terms of impervious coverage. He just wanted to get it on the record so the applicant was aware of it.

With regard to traffic circulation, D. Lindsay said he had little to report because the applicant did what they were asked to do to improve the plan. However, he was concerned about the distance from the menu board to the pickup location on the drive-thru lane. He said that at some point the Board would need more information as to whether this distance is appropriate.

D. Lindsay was also concerned about the applicant's request that the Planning Board reduce the parking requirement by 25 percent. He said their parking requirements were based on certain tenants being in the building. If these tenants change in the future, the parking requirements may also change. Also with regard to parking, there was some discussion regarding what is fast food and what is not. The requirements for parking for a fast food restaurant are different than a restaurant. This may need to be interpreted.

D. Lindsay referred to the three lanes behind the building. One is for service vehicles, one is for the drive-thru and one is a bypass lane. He said these lanes should be clearly marked. Also, he said there should be some discussion regarding the size of the trucks that will be delivering to this location. Also, deliveries should not be made to the front doors of the building.

With regard to ARB, D. Lindsay had some concerns about the retaining wall in the front of the property. He wanted to be sure that it was properly screened so headlights would not shine into Woodbury Center, or out onto the highway.

Chairperson Hunter then asked S. Turner for his comments. He also was concerned about the parking and fast food versus restaurant. He said that G. Thomasberger would need to opine as to what the use is considered because the requirements for fast food are greater than what was illustrated by the applicant and would put them over the threshold in terms of the request for the 25 percent reduction. With regard to the impervious area, he said the applicant mentioned an area of potential reserved parking. He said the Board has allowed this to be shown on plans in the past without actually installing it. The Board may decide that it is not needed at this time and could be held in reserve. However, the Board would need to be confident that this could be done. He suggested that the nine spaces in front be included as part of any subsequent submission.

**JJ WOODBURY LLC - TAX MAP 225-1-31.1 (cont.)**

With regard to SEQRA, S. Turner said that the Board had circulated a Notice of Intent to be Lead Agency and nobody responded. He said the Board could now declare itself Lead Agency for this application.

Chairperson Hunter asked R. Golden for his comments. He was also concerned about the parking and said the applicant would need to identify any fast food establishments, as well as any of the retail spaces because the number of parking spaces will rely on that. This needs to be looked at very carefully before the Board can determine whether or not they can grant the 25 percent reduction.

S. Turner cited the letter from G. Thomasberger which said that the front yard for this site would be Locey Lane. He noted that G. Thomasberger did not opine in this letter on the question of whether this was a corner lot. He said a corner lot requires two front yard setbacks, even if only one of them is considered the front yard. Mr. Esposito said that, because of the existing commuter parking lot on the Route 17 side, there is no access. So this is considered a side yard. R. Golden said that G. Thomasberger would need to clarify this, as his letter does not address the corner lot issue.

R. Golden noted that the Board had not made a decision regarding the 239 referral. He said if they are going to refer it, now would be the time to do so. After some discussion with the applicant it was decided that this would be referred again for 239 review.

The discussion moved on to ARB, with Chairperson Hunter asking the applicant to provide a color rendering of the rear of the building on any future submissions. She referred to the backs of the buildings in Woodbury Centre and said she would look at them to see what the Board required, and possibly mimic that on this site as well. Mr. Esposito said that a lot of the building will be screened from eastbound Route 17 by the retaining wall. There was also some discussion regarding the number of doors that were being shown on the plans. Chairperson Hunter suggested that the applicant provide different versions of the plans for different tenant scenarios, which the Board could approve. This would limit the number of times the applicant would need to return to the Planning Board for changes for new tenants.

Chairperson Hunter then asked the Board members for their questions or comments.

R. Cataggio said he recalled a discussion regarding outdoor dining. Mr. Esposito said that there are currently no plans for outdoor dining.

C. Scibelli was concerned about the parking and asked that it be adequately shown as the plan moves forward.

R. Anzalone asked if there could be more than three restaurants, and fast food as well.

**JJ WOODBURY LLC - TAX MAP 225-1-34.1 (cont.)**

This began a discussion in which Mr. Esposito explained how they had done their parking calculations. He said there are four ways to calculate parking. One was based on square footage for all retail. This came out to approximately 80 parking spaces. They then looked at the restaurants based on customer service area, which required another number of spaces. Then they looked at seating because the code requires one space per three seats. This generated another number. They concluded that the strictest analysis for three seats is 125 spaces. If seating alone is used it would be 95 spaces. He said they spoke to the potential tenants and asked about their hours of operation and staff parking and arrived at 96 spaces.

With regard to the fast food question, Mr. Esposito said that Starbucks is not a fast food restaurant. Sweet Frog – which sells frozen yogurt – is no longer going to be a tenant. They are now looking at an Italian restaurant, which also will not be fast food. He said that now the maximum number of required spaces would be 128. With their 96 spaces, the Board would be required to grant an 18 percent reduction in required parking. He said that was similar to what had been done for Panera Bread, which was 17.6 percent. They are asking for 25 percent because it gives them greater flexibility. He then pointed out the areas of the land swap and said they could put 15 spaces on the portion that they are currently not planning to use, and another potential 17 spaces on the land they don't yet own. Mr. Esposito added that they are trying to find tenants that will work in the 96 parking spaces. If they have a reserve area that could be constructed after the land swap with 9 or 10 spaces that gets them up to 108 spaces and the required reduction goes down. He said they needed to know what number the Board would be comfortable with.

At this point D. Lindsay noted that he appreciated the applicant not using the area that is reserved for the land swap. However, he pointed out that this land swap may not happen for another 15 years. He suggested that the applicant could use the portion of the land they do own, pave it, and have all the parking they would need. He asked that the applicant consider this.

Chairperson Hunter also noted, with respect to the parking reduction for Panera Bread, that they have the luxury of having parking across the street in the Home Depot parking lot. That is why the Board felt that they could grant the reduction.

At this point Chairperson Hunter asked the Board members if they felt that a traffic study was needed, noting that a traffic study had just been done for Woodbury Common. None of the Board members felt that a new traffic study would be necessary.

R. Anzalone was concerned about Locey Lane. He expressed the desire for a right hand turn lane. Mr. Esposito said there are future plans for a left turn, straight, and right turn lanes in this location. Chairperson Hunter suggested that a temporary right turn lane could be constructed. She suggested that the applicant speak to the Highway Superintendent. Mr. Esposito said that

**JJ WOODBURY LLC - TAX MAP 225-1-3-1.1 (cont.)**

they had already met with the Highway Superintendent and he had no problems with the project as it is.

With regard to the parking reduction, Chairperson Hunter asked the Board members how they felt. All Board members agreed that the applicant should look at the plans and see if they can find some additional parking spaces, and return to the Board for further discussion. R. Golden also noted that, if the Board does grant a reduction, it will be based on the tenants they currently have. Any future tenants will need to fit into the same categories as existing tenants, or the applicant won't be able to have any new tenants without a variance, or another appearance before the Planning Board.

There was another discussion regarding the reduction in the parking requirement. S. Turner then reminded the Board that they had not confirmed their Lead Agency status. R. Anzalone then made a motion to declare the Woodbury Planning Board Lead Agency for this application. R. Cataggio seconded the motion. The vote was as follows:

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

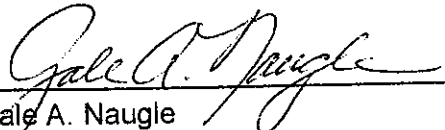
Chairperson Hunter then asked D. Lindsay to prepare a letter of referral to the ZBA for this applicant.

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

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

The meeting was adjourned at 10:35 p.m.

Respectfully submitted,

  
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Gale A. Naugle  
Planning Board Secretary