

**Village Of Woodbury
Planning Board Meeting
December 16, 2020**

Minutes of the Planning Board Meeting held on December 16, 2020 at 7:30PM
(This meeting was held via Zoom)

Present: Christopher Gerver, Chairman
Robert Anzalone
Richard Cataggio
Sandra Capriglione
Thomas Deluca

Absent: None

Also Present: Richard Golden, Planning Board Attorney
Jon Bodendorf, Village Engineer
Jonathan Lockman, Village Planner

Chairman Gerver opened the meeting with Pledge of Allegiance.

1. **Executive Session:** No Executive Session was necessary.
2. **Public Comment:** No member of the public had comments.
3. **7:32 Approval and Acceptance of Previous Minutes:**
Motion was offered by Chairman Gerver to approve and accept the minutes of the meeting held November 18, 2020 on January 6, 2021.
4. **New Business: N/A**
5. **Regular Agenda:**
 - A. **Pine Ridge Estates** - Extension request of preliminary approval for 6 lot subdivision located off of Schunnemunk Road in Highland Mills and known on the Tax Maps as Section 213 Block 1 Lots 4 & 5.

The applicant was not present. Their meeting with the Planning Board is in reference to the site plan approval but are asking for an extension. Chairman Gerver read the letter the applicant sent to the Planning Board regarding an extension.

Asher Horowitz's letter dated December 2, 2020:

"Unfortunately due to the lawsuit on this property is still in affect we won the case but there is an appeal pending by them, is causing a delay, and I would like to ask for an extension, so that we don't lose all the hard work and money that we've invested into this project

Unfortunately due to corona the rolling seems to be delayed please let us know how you are proceeding with the agenda so we get on to the next meeting."

Chairman Gerver said everyone can agree that the courts have a backlog and is slow in getting anything done, therefore there has been delays. He said normally it would be a 6-month extension but because of COVID and the delays in court he like to make a motion.

Motion was offered by Chairman Gerver, seconded by T. Deluca to grant the applicant a 1-year extension to January 5, 2022.

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, S. Capriglione, R. Cataggio, T. Deluca
NOES 0

- B. **All Mine of Orange** – Review and discuss proposed lot line change and possible Ridge preservation for a proposed single-family home located on Skyline Drive in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 208 Block 1 Lot 3.31 and 21,

Background – Previously in 1985 and later in 2002 these parcels were proposed for development of a two-lot subdivision. The subdivision proposal required a 280-a (Town Law) variance for lack of required frontage along a public road, which was granted. This variance was discussed with Counsel, who opined the proposed development is dissimilar to the proposed 2-lot subdivision and as such the variance would not apply to this application. Thus, H2M believes the applicant would need to develop the road to municipal standards and dedicate the improvements or seek a variance for construction on a roadway not improved to municipal standards (Village Law 7-736). Other noteworthy site considerations are the steep slopes, drainage easement, water and sewer connections, and potential development of neighboring parcels.

Engineer, Michael Morgante representing the applicant, shared his screen with the Planning Board (site plan display) and started to give a description of the property’s location and cross streets. He proposed a 4-bedroom home and showed on the screen where a residential sewer line and water service line will run. He said in the past the site had a zoning variance for a two-lot subdivision, which he believes was never completed. He continued to say the variance was granted back in 2002 for 280-A variances for lots to be developed that have no road frontage, an area variance and a front yard reduction from 40 ft. to 30 ft. Mr. Morgante spoke of drainage easement, a lot currently known as 18.2 that may have been combined with the subject site, a slope analysis that he conducted, he pointed out some shaded black areas on the plan indicating a portion of the property to be very steep. He said he did a net lot area calculations and which ended up being 49,736 sq. ft. Mr. Morgante said the house is a bi-level with a garage. He provided pictures (on screen) of the house he constructed in New Windsor to show similarities for the proposed home. He noted there’s a lot of wooded area around a section of the property, so the property would remain screen and he won’t be able to clear it anyways because its in a drainage easement. He said issues that have come up have been noted by the consultants in their memos.

Planning Board Engineer, Jon Bodendorf mentions his memo that was issued dated December 11, 2020. He said most of his comments are in relation to access issues and variances and the need for ridge preservation. He also questioned if the proposed access formerly known Skyline Drive is legal. He said the applicant needs to provide additional information. As per the granted variance in 2002 for the previous 2-lot subdivision, Mr. Bodendorf doesn’t think it will hold for this application though the variance for front yard setbacks would be good for the application. He made reference to setbacks for the side yard, he believes it should be 30 ft. requirement not 20 ft.

H2M Memo dated December 11, 2020:

1. Zoning – Single family homes are permitted in the R-1A Zone1 . According to the Code single-family residences are exempt from site plan approval by the Planning Board except where they are located in a flood hazard area (See §310-45.C(1)(a)). Since this site is not located in a flood hazard area, site plan approval by the Planning Board is not required:

a. Front Yard Setback – The R-1A district requires a 40-ft front yard setback. As a note below the bulk table on Sheet 4, the applicant indicates a 30-ft setback is applicable based on a variance received in 2002. The front yard setback provided is 36.3-ft. We defer to Counsel as to whether a new variance is required.

b. Side Yard Setback – The R-1A district requires a 30-ft side yard setback (20-ft line is shown and should be revised). A 26.9-ft² side yard setback is indicated on the plans. A variance is required with referral to the ZBA.

2. Access – The applicant proposes access to the property via driveway through an unimproved portion of the public ROW for Carpenter Drive. Unless the applicant proposes to develop Carpenter Drive to Village standards, then a variance is required. Construction of the road might require a cul-desac with dedication of a portion of land to the Village to maintain a right-of-way around the cul-desac or other design acceptable to the Highway Superintendent. If the applicant does not wish to improve the road to Village standards, according to Village Law 7-736 a variance is required.

Village Planner, Jonathan Lockman had similar comments in the NPV memo dated December 10, 2020. He said there are some labeling issues, there are some numbers for instance the property section numbers do not match and so the plan needs to be cleaned up.

NPV Memo dated December 10, 2020:

1. Labeling

The SBL numbers of the two subject lots are not shown. The surrounding lots are shown as part of section “8,” which should be corrected to section “208.” Lot 208-1-3.31 is incorrectly labeled as 8-1-18. Lot 201-1-18.2 is incorrectly labeled as 8-1-3.22. The acreage of the subject lots and surrounding lots should be indicated below the proper SBL numbers. The north arrow on the plans appears to be pointing west or northwest and should be corrected.

Mr. Lockman said he would like to see a copy of the variance resolution/decision and try to figure out which variance is needed. He said he is aware there is a request to consolidate the lots, but he’s not too sure why consolidate when one lot is labeled as a right-of-way. In his opinion there is no need for consolidating the lots, the project can be done without it. He mentioned ridge preservation, he said the house can be lowered on one side to make it fit better with the ridge preservation standards. Mr. Lockman a house with a different site cannot be submitted for an ARB, so he’s looking for the applicant to provide a visualization of the house as it will look on that site.

Planning Board Attorney, Richard Golden said theirs a disconnect as far as what the applicant is showing on the plans, and what the application states. He said there are different tax map numbers listed and also one of the lots is mislabeled on the plan, although it was identified in the application. Mr. Golden made reference to lot 208-1-3.31 in the application. He said in the application there’s an indication “to be offered for dedication”, but the Planning Board and consultants don’t have that information and so he suggested Mr. Morgante provide that information to the Board in order for them to make a determination whether or not it makes sense to merge. He said there may be adequate access to that road from a theoretical view, but it may not work from a topographical view, at the moment it’s a single lot. He said he read the 280-A variance ZBA decision and it says the 280-A was granted to order to facilitate the two-lot subdivision because it needed access in both ends of that two-lot subdivision and as it was noted before it was never filed, so he’s not convinced that the 280-A is applicable. He said and since its one lot and a variance is requested the applicant will have to get 7736 variances under the Village law which is equivalent to the 288-A Town law. Prior to going down that route Mr. Golden suggested the applicant to investigate who owns Skyline Drive since its not clear.

Mr. Golden added the lot will not be subject to ARB review technically because under the current law its not part of a 5-lot subdivision, so it may fall under the new ARB law that’s pending (if it passes then it would be subject to that ARB); but the applicant will certainly be subject to ridge preservation. He said the applicant will probably need a variance for the eastern side yard of the home since the applicant is proposing 26.9 ft. when 30 ft. is required. In addition, Mr. Golden agreed with Mr. Lockman on the ridge preservation, in his opinion the variant still exists and it can be utilized for this home.

Mr. Lockman said he agreed with Mr. Golden on the application falling under the new ARB law. Mr. Golden said if the Board acts before this approval of the new ARB not only would the new law apply but even after approval if the applicant hasn't done certain acts under the common law and the Board passes the law it will affect the applicant and he will have to go back to the Board for an ARB at that point in time.

Mr. Golden said he needs a copy of the drainage easement. It may be relevant to the ridge preservation and tree cutting and clearing. He said by voter recognition the Planning Board can identify this is a type 2 action under SEQRA since it's a construction or expansion of a single-family dwelling therefore no further SEQRA has to be done. He said there may be a public hearing required if its subject to an ARB. Mr. Golden said he doesn't know if the property is within any of the triggers of GML 239 because he doesn't know the ownership of Elmwood and Cedar, so he doesn't know if it has to be referred. He said the merging of the two lots needs to be addressed quickly since it can go in a different direction and affect the application.

Chairman Gerver wants it to be clarified that is 2,244 ft. to the nearest county road and no county drainage facility within 500 ft. He suggests asking the Building Department to double check.

Mr. Lockman asked Mr. Golden if the Skyline Drive was not abandoned by an action is there a statutory length of time before it gets abandon and reverts to the abutter's ownership. Mr. Golden said he would have to investigate, he needs to know more about Skyline Drive, who owns it and whether or not it was formally dedicated.

Mr. Mongante said he will investigate. He asked if the applicant was to propose something like the original 2-lot subdivision that was before the Planning Board back in early 2000, would the 280-A still apply. Mr. Golden said he is not sure it would help without some of underlying facts being reflected. He said the approved 280-A was not clear with respect to why it should be done, how it should be improved etc., it basically states the two ADA variants denied due to the threat of being sued, so a decision was made of rehearing it and granting it. Since things have changed since then the Planning Board and counsel need to know the ownership of that road whether or not if it was offered for dedication, accepted for dedication or its in private hands now. He said there's just a lot of unanswered questions and he's not comfortable in giving an opinion until they are answered.

Mr. Bodendorf said if the applicant was to go back to a 2-lot subdivision, they would have a hard time meeting the net lot area requirements. He doesn't believe the net lot area calculations are the same as back when the 2-lot area was reviewed.

Chairman Gerver asked Mr. Mongante if he understands the list of things, he was given that need to be executed prior to the next meeting and Mr. Mongante agreed to get it done.

- C. **Introductory Local Law #12 of 2020:** Review referral by the Village Board of Trustees of Introductory Local Law #12 of 2020 entitled "A Local Law Amending Chapter 8 ("Architectural Review Board") and Chapter A314 ("Architectural Review Board Rules") of the Code of the Village of Woodbury to Clarify the Guidelines and Standards of the Architectural Review Board."

Village Engineer, Jon Bodendorf made some language recommendations in his memo dated December 11, 2020 and wanted to make sure Mr. Golden agreed.

H2M Memo dated December 11, 2020:

1. Chapter 8: a. (§8-4) We recommend you consider the change to review 2-lot and greater subdivisions, instead of the current criteria specifying 5-lots.

b. (§8-4) The requirements for ARB review appear to exclude individual developments if they were not part of a subdivision or subject to Ridge Preservation criteria. For example, it appears recent

developments like Central Valley Property Management or AEONN Estrada Hotel would not be subject to ARB review. This may not be the intent.

c. (§8-4) We recommend you consider if identifying lots part of subdivision approved by the Planning Board on or after January 1, 1990 is practical. We aren't sure if there is something particularly noteworthy regarding this date, and assume Counsel will advise, and think this may require input by the Building Department.

d. (§8-5.A(1)) "Mass line" is included in the criteria for determining excessive dissimilarity, similarity, and inappropriateness. It is not clear what this is intended to reference. This might have been meant as mass, and roof line. We recommend this be clarified.

e. (§8-5.A(2)) We agree that gross floor area is an appropriate means for determining excessive dissimilarity, but it might not be adequate without consideration of mass of building (cubical contents), which has been deleted.

2. Chapter A314:

a. (§A314-1.(C)) We recommend the following revision to the definition of "neighborhood": "The term "neighborhood" as used in these rules shall be the subdivision of land that included that property that is the subject of the application, the surrounding area, and neighboring residential developments."

b. (Throughout) We recommend the term Chairperson in lieu of Chairman, be consistent throughout both Chapters.

c. We recommend the language in §A314-9.C. be reviewed for consistency with proposed language in §8-8.

d. §8-5 should be revised where "alternation" is used instead of "alteration".

e. (§A314-8.(B)(1)) We recommend "adjacent property owners" be clarified. The Building Department uses a 300-ft radius for typical notices for Public Hearings. If it is to be the Building Department sending these Notices, perhaps this should be stated.

f. (§A314-9.(A)) We recommend Counsel clarify the consequence for not making a decision within 62 days of the public hearing.

Mr. Golden mentioned having a redlined version of the law (it showed changes from the old law to the new law) which may make some of Mr. Bodendorf's recommendation obsolete. The redlined version was shared on the screen.

It was noted as per Mr. Bodendorf's recommendation on Chapter 8: a. (§8-4). The updated language is...

§ 8-4. Review by Planning Board.

The Planning Board, in its role as Architectural Review Board, shall review plans and specifications for the following buildings, and alterations to buildings, as defined in Chapter 310, Zoning, of the Code of the Village of Woodbury:

A. Buildings and alterations in all subdivision applications."

Chairman Gerver gave an overview. He said the intent of the changes in this ARB law is to pick up some of the homes that have gotten approved and did not appear in front of the Planning Board. The updated language will subject homes to meet a certain criterion for ARB. Mr. Golden said it was previously interpreted by the Building Inspector Gary Thomasberger that if it's part of a subdivision, it goes to ARB; once approved, if the applicant wishes to do something

new there wouldn't be a need to go back to the Planning Board since it was once approved. Therefore, the Building Inspector Thomasberger is able to issue a building permit. He said section B of 8-4 was added to capture things outside of the subdivision.

B. Buildings and alterations which require a building permit, pursuant to Chapter 310, Zoning, on any lot that (i) was part of a subdivision approved by the Planning Board on or after January 1, 1990, or (ii) is otherwise subject to the Ridge Preservation regulations of Section 310-13.

Mr. Golden said the year 1990 was added to grandfather in older subdivisions, if the Planning Board wishes to change it, it be okay to update it.

Chairman Gerver asked what about commercial properties that are not subdivision.

Mr. Golden said there is a different provision in the code, and he would have to take a look in order to give a specific answer. Chairman Gerver along with the Board members are concerned, he wanted to be certain this provision will take in count homes that are for example a 5,000 sq. ft. home and suddenly wants to put a 1,000 sq. ft. addition.

Mr. Lockman confirmed that LC district and CR district there have special standards for architecture that are outside of ARB, when reviewing commercial projects. He said that information is located in the article five supplementary regulations.

D. Introductory Local Law #13 of 2020: Review referral by the Village Board of Trustees of Introductory Local Law #13 of 2020 entitled " A Local Law Amending Chapter 310 ("Zoning") of the Code of the Village of Woodbury to Clarify the Guidelines and Standards of the Ridge Preservation Review"

6. **Action of Decisions: N/A**

7. **Public Hearings:**

8. **Deliberations on Closed Public Hearings:**

9. **Board Member Comment:**

Adjournment:

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by _____, to adjourn the meeting at 9:39 PM.

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, R. Cataggio, S. Capriglione, T. Deluca
NOES 0

Claudia Romanisin, Planning Board Secretary