

**Village of Woodbury
Planning Board Meeting
March 17, 2021**

Minutes of the Planning Board Meeting held on March 17, 2021 at 7:30PM
(Meeting held via Zoom)

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

Members Absent: None

Consultants Present: Richard Golden, Planning Board Attorney
Natalie D. Barber, Engineer
Max Stah, 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. Approval and Acceptance of Previous Minutes:

Motion was offered by Chairman Gerver, seconded by T. Deluca, to approve and accept the minutes of the meeting held January 20, 2021. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, R. Cattagio, S. Capriglione, T. Deluca

NOES 0

Motion was offered by Chairman Gerver, seconded by T. Deluca, to approve and accept the amended minutes of the meeting held February 17, 2021. The amendment was made on page 5; Mr. Anzalone asked to update his remark, "...out from Oakland Avenue along with Larkin Road". Larkin Road was updated to Gregory Road. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, R. Cattagio, S. Capriglione, T. Deluca

NOES 0

4. Regular Agenda:

A. Fischer – Review and discuss documents submitted for proposed 2 lot subdivision on Schunnemunk Road. Said property is located at 7 Schunnemunk Road in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 204 Block 1 Lot 36.2.

The proposed subdivision will create two lots from the existing lot 204-1-36.2. Proposed Lot 1 is a corner lot (confirmed by Building Inspector Gary Thomasberger) with frontage on Schunnemunk Road and Lent Drive. It contains a shed and two locations of foundation remains and is proposed for development of a new single-family home. Lot 2 has frontage

on Schunnemunk Road and is improved with a single-family dwelling and masonry building (use unknown) with attached garage. In addition to Subdivision review the application is subject to Ridge Preservation and ARB review.

Architect, David Niemotko representing the applicant proceeded to give a brief background on the application. He said on Schunnemunk Road there's a land that's just a little over 2 acres and the applicant would like to subdivide it into 2 parcels. On that land there is a house and another structure with a garage. The plan is to remove the garage, keeping the structure and the house and built a new house on the adjacent lot. Mr. Niemotko said he has reviewed the comments from the Village Engineer and Village Planner and was open to any suggestions from the Board and consultants.

Engineer, Natalie D. Barber began noting what is currently on those 2 lots. She then began to go over comments on the H2M memo. She said there was a deficiency in the net lot area per code. Looking at the net lot area calculations, one lot can measure up to 1 acre, but the other comes to less than 1 acre. She believes this application should be referred to the ZBA for net lot area. Another issues Ms. Barber mentioned was the use of the property. Its not clear as to what will be the use, making it a little difficult as to what code it will meet. She continued to go through her comments and ended with the water and sewer connections. She pointed out certain information that's not shown on the plan, for instance details on erosion and sediment control, as well as revised topographic elevations. She finished saying it was requested for the applicant to provide additional information on the access and easements.

H2M Memo dated March 12, 2021 ...

1. Zoning –

a) Use – Existing lot 204-1-36.2 is zoned R-1A. Single-family homes are permitted in the zone. The purpose of the existing masonry building on Lot 2 requires discussion. The Code (§310- 11) permits accessory buildings as long as they are less than 1,500 SF. Since the building (less garage) is approximately 2,275 SF this may be considered a secondary principal use on this Lot. After a discussion with the applicant, if necessary, you may wish to request an opinion from Building Inspector Thomasberger to classify this use, which could have impacts on the lot area requirements.

b) Bulk Regulations – The following require clarification based on the plans submitted:

i. Lot Area / Net Lot Area – The Code requires a minimum net lot area of 1-acre in the R-1A zone. The plans provided show two non-conforming lots less than 1-acre. Based on the available information on lot area and required deductions, a variance is required from the ZBA. If they proceed to the ZBA, the applicant should review their net-lot-area calculations with respect to steep slopes and confirm the required deductions are accounted for, we believe further reductions may be needed. Furthermore, we recommend you discuss the configuration of the lots and whether the proposed shapes are necessary. These are highly irregular, which may have been done to try and meet the Code Bulk requirements. However, since it appears an area variance is required, we recommend they be reconfigured for a more practical layout.

ii. Front Yard – Proposed Lot 1 is a corner lot with frontage on Schunnemunk Road and Lent Drive. The applicant should show the required 40-yard setback on Lent Drive. As it is located, the proposed home has a non-conforming front yard setback. Pending a determination on use and classification as accessory or principal, we note the existing masonry building on Lot 2 encroaches on the front yard setback. Although, it is a pre-existing nonconformity, we note the implications of the encroachment are different if the structure is accessory or principal.

iii. Rear Yard – The applicant should clarify the location of the front door on proposed Lot 1. Considering the Code definitions and discussion with the Building Inspector this lot is considered a corner lot. As such, the rear yard is the yard opposite the front yard with front entrance. The alternate yard is the side yard. If the front entrance will be on Lent Drive, the required setbacks should be adjusted. Lot 2 has a complying rear yard setback with the proposed removal of the existing garage.

iv. Yards Fronting on County Highway – The Code (§310-12.B) requires yards fronting on County highways be unoccupied and open to the sky not less than 50-ft in depth. This setback requirement should be shown on the plan. We note the existing shed on proposed Lot 1 is an existing non-conformity.

v. Coverage – Although the proposed lot coverage calculations appear complying, the coverage on Lot 2 is near maximum. To verify compliance, we recommend the applicant confirm the limits of the stone patio on Lot 2 that are not obvious as shown.

vi. *Accessory Structures* – As noted above, proposed Lot 1 contains an existing shed along the portion of the Lot that extends to Ridge Road. Although located in the rear yard, which is complying, it does not appear to meet the Code (§310-12.C(3)) required 6-foot setback from the proposed lot line, creating a non-conformity with your Code. Although the irregular lot line configuration of proposed Lot 1 includes this structure, from a street point of view, the location of the shed would seem it is accessory to the existing home on Lot 2. We recommend the applicant confirm the functionality of this structure and whether it is necessary to remain.

c) *Parking* – The Code (§310-40.A(5)) requires each residential unit have two (2) parking spaces. Unless the masonry building on Lot 2 is a principal use with additional parking requirements, the code requirements are satisfied.

2. *Subdivision Plan* –

a) *Utilities*

i. *Water* – The subdivision is located within the Village’s Consolidated Water Area. The applicant proposes to connect the home on Lot 1 to this municipal service. According to available information, the existing water main on Lent Drive is 6-inch asbestos cement. Any connection to a main of this construction should follow the protocols required by AWWA standards for health and safety. The property will be served by the Earl Reservoir storage tank with adequate pressure and storage for this use.

The following should be provided:

- Provide number of bedrooms proposed for single-family home. Confirm estimated water demand for both lots. • Provide size and material of proposed water main connection.

- Revise Sheet C-3 “Profile View of Water Lateral” to indicate “Connection to existing Water main”.

- The depth of the water service connection should be a minimum of 4-ft below grade at all locations (affirmed by details on Sheet C-4). The profile provided is non-complying.

- Confirm construction requirements of the Water Department are met.

- We note a well is shown on Lot 2, we recommend the applicant confirm the existing water service to the existing home and masonry building (if any) on Lot 2. The applicant should also confirm there will be no possible interconnection of the existing well and the water system and if no longer being used it should be decommissioned in accordance with DEC regulations.

ii. *Wastewater Disposal* – The subdivision is located within the Village Consolidated Sewer Area. The applicant proposes a 4-inch SDR35 connection from the home on Lot 1 to this municipal service. The following should be provided:

- Provide number of bedrooms proposed for single-family home. Confirm estimated sewer generation for both lots.

- The manhole upstream of the point of connection should be shown and invert information provided.

- Provide a clean out at the 90-degree bend in the sewer lateral.

- The profile shows the proposed sewer connection daylighting above grade. The applicant should confirm the required cover is met for the entire length of sewer.

- On Sheet C-4, the “Sanitary Sewer Lateral” detail does not match the plan (size and material type). Applicant to confirm.

- Confirm construction requirements of the Sewer Department are met.

- Confirm existing sewer service connections to existing home on Lot 2 and confirm there are no other sewer connections to other structures or show them as well.

iii. *Stormwater Management* – Although single family residential development of this type and extent is exempt from the stormwater MS4 regulations, the plan should include reasonable stormwater management techniques to address water

quality and runoff from roofs and proposed pavement. In our opinion the details for erosion and sediment control provided are acceptable, however, we recommend the location of the same be shown on the plan.

iv. *Miscellaneous Details on Utilities* – The applicant should review the notes provided on the details sheet and confirm applicability for this project (i.e., sprinklers).

b) *Grading* – The proposed grading is acceptable. Applicant should revise the topographic elevations shown. Google Earth shows this area above elevation 800-ft.

c) *Survey/Legal* – The plan provided by the applicant was created based on a survey completed by Darren J. Stridiron, PLS.

i. The plat should include the names and addresses of the record owner and subdivider as required by the Code (§272-26).

ii. The plat shows easements are present on the existing lot. Copies of these should be provided for review by Counsel.

iii. At the appropriate time, a metes and bounds description of the proposed lots to be developed will be required (§272-26.L) We recommend this submission be postponed once the shape and area of the lots are decided.

d) *Access* – The applicant should confirm compliance with the Code (§310-14) requirements for residential driveways including slope and sight distance requirements. Further, per the Code (§272-26.S), details on the driveway construction should be provided.

3. *Ridge Preservation* – This action is subject to Ridge Preservation review. The requirements of your Code are appended. The nearest view corridor is Ridge Road/Schunnefunk Road, which both properties have frontage on to the South. Although some of the requirements may not be applicable, the construction standards (use of natural materials and colors, roof slopes, non-reflective windows, among others) and preservation of tree stands or requirements for additional plantings may be appropriate. The applicant should provide a superimposed photo of the proposed structure as required by the Code (§310-13.B.6). Furthermore, your Code (§272-26.U.) requires the location of all trees on the site over one-foot in diameter, four feet above ground level, be shown on the subdivision plat. The applicant should provide this information for your consideration of Ridge Preservation.

4. *ARB* – The applicant should confirm no exterior modifications are proposed to the structures on proposed Lot 2, save for the demolition of the existing garage. The single-family home proposed on Lot 1 is subject to ARB review. The Code requirements are appended. The required ARB application and supporting papers should be provided.

5. *Water Quality Protection Overlay* – The proposed development is located within the Aquifer Protection Overlay District and the applicant should confirm compliance with the regulations for development therein.

6. *Dirt Road Connection* – The plan shows a dirt road connection to Schunnefunk Road that extends from proposed lot 2 into the existing roadway. Applicant to advise purpose of roadway and whether it is actively used. If the subdivision is perfected, the road should be physically removed.

7. *Foundation Remains* – The foundation remains should be removed if they pose a hazard.

8. *Plat Approval* – The applicant should confirm whether they are seeking preliminary or final plat approval.

Understanding Ms. Barber's comments Mr. Niemotko proceeded to say, he agrees the masonry building being too big for an accessory structure. He continues to say the front yard is a pre-existing non-conforming condition and he would like the Board's consideration. Regarding the back yard he does not understand why it doesn't meet the setback requirement since its beyond 50 ft from the back of the masonry building to the proposed lot line. Ms. Barber said once the garage is removed its conforming to the rear yard setback. She believes the real issue is not knowing what it will be used for, once that question is answered then the discussions with the Building Inspector Thomasberger will begin. She let Mr. Niemotko know that if he chooses to go before the Zoning Board of Appeals, the use will be a topic of discussion.

In reference to the proposed lot with the new house, although there is a driveway Mr. Niemotko is proposing a new driveway. It is having access off Lent Drive since there's more of a site distance. He asked for the Board's comments to his proposal. Ms. Barber said in her opinion, if the adequate site distances are achieved that information should be provided and if its in question it can be reviewed by the Traffic Consultant.

Mr. Niemotko said they are proposing a lot line and the configuration is unique itself, so if they were to appear before the ZBA they will be asking for 5% variance on one lot and 7% variance on the other. He asked how would the Board refer them to the ZBA for more conventional lot line while that would increase the variance that would be requested.

Planning Board Attorney, Richard Golden said the position of the Planning Board is to deal with Planning Board issues, they don't typically deal with 5-part area variance test that the ZBA is bound to do. Although the Board can make a referral on the irregularity of a lot, they can weigh in on the planning aspects, but not whether or not a variant should be granted by the ZBA. Mr. Niemotko not wanting to go against Mr. Golden's comment. He said its an imaginary line that no one can see as you look across the property. There are legal descriptions with it but its not an obstruction to the property and if its achieved the way its proposed he believes it be a good thing.

Mr. Niemotko said there was a preliminary study regarding the 15 to 25 slopes. He said due to the study they can grade it out and eliminate the slopes. Mr. Niemotko continued to say that by doing so it would help increase the net area and it would provide a traditional configuration of the subdivision line. Ms. Barber said the net lot area is for existing conditions whether the applicant chooses to regrade it and if it would get approved it would be based on the conditions as they are now. Ms. Barber continued to say that it wouldn't be considered in any variance request. Mr. Niemotko spoke of ways of modifying the site yet Ms. Barber noted the approval hasn't been granted to be speaking of modifications. Mr. Golden was in agreement with Ms. Barber. Mr. Niemotko said they are the points where they cannot amend, alter or grade the existing site, therefore having them go to the ZBA and they would need to be referred.

For some clarification Mr. Golden asked Mr. Niemotko if in his description of the site, if he was referring to the shed. Mr. Niemotko said the shed is not consequential, he was referencing the masonry building. He said the one-story masonry building as a pre-existing non-conforming condition in respect to the front yard off Schunnemunk Road. Mr. Niemotko said its 37.6 feet away from the property line. Mr. Golden asked if Mr. Niemotko was creating a front yard because presently its not. Mr. Niemotko believes it is since the driveway is off Schunnemunk Road. He then asked the consultants what would they consider the front yard to be in the first lot. Mr. Golden said he wouldn't know, but the Building Inspector Thomasberger should be able to determine it, under the present condition and under Mr. Niemotko reconfiguration as to what would be there. Ms. Barber said in her opinion it may be within the front yard making it a pre-existing non-conformity, which let her to asked Mr. Niemotko what is the use of the building and Mr. Niemotko said he honestly did not know. Ms. Barber mention a similar application noting it may have the same outcome. She said in order for the applicant to move forward it would be best if they can get some things flush out before being referred to the ZBA.

Chairman Gerver suggested having a meeting with the Building Inspector Thomasberger in getting his opinion on pre-existing non-conforming and what should be consider for the front and side yards. Mr. Niemotko agreed, saying it would help him get a clear vision on things. Ms. Barber agreed as well, she feels the Building Inspector Thomasberger opinion will help answer these issues. She said she previously spoke with the Building Inspector Thomasberger about the new lot, new home, and the setbacks. She noted the applicant's plan did not show the 40-foot setback which is required. Ms. Barber then asked the Board for their opinion on the way the lot lines are configured. If the Board would like those lines changed then the plan will change. Mrs. Capriglione said she would prefer to have it changed. She's not comfortable with the way it is. Mr. Deluca agreed. Mr. Golden said that issue needs to be resolved before presenting it to the Building Inspector Thomasberger. He said it is up to the applicant owner to decide what is the use of the building because different interpretations will come up from which ever use is decided.

Mr. Chairman said there are two issues that need to be taken care of. The reconfirmation of the lot line and the determination of the use either from Mr. Niemotko or the applicant.

Mrs. Capriglione asked about a property located at the top of where the proposed gravel driveway (she pointed to the area on the plan). She asked who own that particular land. Mr. Niemotko said he wasn't sure. She mentioned it because the driveway on the plan goes on that piece of land. Mr. Niemotko said they have to do some investigating. Chairman

Gerver said Mr. Golden would need a copy of Mr. Niemotko findings. Mr. Golden said that piece of land may be an easement without being written, or just an access that no one complained about. He said it needs to be set by a legal criteria, so he thinks is Mr. Niemotko should find out what rights they may have to the use of the land outside the property line.

Village Planner, Max Stah agrees with Ms. Barber's comments adding there are a lot of zoning issues that need to be squared away and speaking with the Building Inspector Thomasberger the issues will be clarified. He said it would be better the new lot gets access from Lent Drive rather than Schunnemunk Road. He said it would make a lot more sense that way. It was noticed the gravel driveway going out Schunnemunk Road is not shown to be removed. If it's not to be removed, then there should be some sort of easement and any easement would have to be accounted for in the lot area. Mr. Stah said other than these comments he didn't have any additional comments worth noting at this point.

Nelson Pope Voorhis (NPV) Memo dated February 26, 2021:

Zoning Comments

3. The minimum net lot area required in the R-1A district is 1 acre or 43,560 square feet. It appears that the proposed lot split would require a variance, as neither of the proposed lots has enough net lot area, as required by the definition in the zoning code. Per the applicant's calculations in the zoning table on sheet C-2, the overall gross area of the subject lot is 2.07 acres or 90,003 square feet. Pursuant to the new lot area definition, the table provided then calculates the net lot area of provided in the subject lot (prior to subdivision) by reducing this gross area, as follows:

- a. Subtracting 740 square feet for easements;*
- b. Subtracting 20% of the slopes between 15 and 25%, or 5,648 square feet;*
- c. Subtracting 50% of the slopes between 25 and 35%, or 880 square feet; and*
- d. Subtracting 80% of the slopes over 35%, or 728 square feet.*

This results in an overall net lot area of the subject parcel of 1.88 acres or 82,007 square feet, prior to subdivision. Two full acres or 87,120 square feet of net lot area would be required to split the subject parcel into two conforming lots; therefore, there is a shortage of 5,113 square feet.

4. Part two of the definition of lot area states that "an area of at least 80% of the gross minimum lot area requirement in the applicable zone shall be contained in land with slopes of less than 15%." We note that the proposed two lots appear to comply with this standard. However, our figures differ from the applicant's. The zoning table entries for "% of Lot with <15% Slopes" should be corrected to 95% for Lot 1 and 89% for Lot 2.

5. The proposed new house on the western lot is shown 30 feet from Lent Drive, as the designer has utilized a side setback requirement along that lot line. However, it appears that the line along the Lent Drive frontage is a front lot line, requiring a 40-foot setback. The definition of "Lot, Corner" specifically includes lots abutting a curved street. Corner lots require a front setback from all street line frontages. In order to meet both front and rear setbacks, the depth of the proposed house may need to be reduced, unless a variance is obtained.

6. The newly created side lot line for the eastern lot is only 30 feet from the north wall of the barn, creating a non-conforming side setback, causing the need for a variance unless it were removed. The nonconforming front setback for the barn of 37.6 feet is an existing condition, not affected by the proposed subdivision, but nonetheless should be noted in the zoning table on sheet C-2.

7. It appears that the frame shed shown in the "panhandle" section of the western lot, close to Ridge Road, would also create a nonconforming side setback, causing need for an additional variance unless it were removed. Sheds are only allowed within rear setbacks.

8. The largest parts of both proposed lots appear to meet the minimum lot width requirement of 125 feet at the front setback line. However, the western proposed lot narrows to 60 feet in width, at its frontage along Ridge Road. The Building Inspector should opine as to whether this "panhandle" with frontage on Ridge Road violates the minimum lot width requirement, causing the need for an additional variance.

Chairman Gerver then said the Board will need updates with the lot lines, the potential change in the lot lines. The easement issues or reconfiguration of the driveway to Lent Drive and the use of the masonry structure. Mr. Niemotko . asked the Board what do they considered to be the front yard for the lot with the existing house. Ms. Barber said she thinks its how its presently shown. Mr. Niemotko said they will consider the side of Schunnemunk Road. Mr. Golden suggested to first discuss it with the Building Inspector prior to making a decision. Mr. Niemotko agreed as well as Ms. Barber. Chairman Gerver asked Ms. Barber to send a memo to the Building Inspector Thomasberger letting him know of all the issues that need to be clarified.

Mr. Golden suggested to Ms. Barber when reaching out the Building Inspector Thomasberger to request his opinion on both as existing as well as proposed. Ms. Barber said she will ask to identify the front yards for both lots as well as the side and the rear. Mr. Niemotko said the determination will be the front yard of the existing house, he said that is not going to change no matter where they draw the lot lines.

Mr. Niemotko thanked the Board for their time and is looking forward to working with the Board.

- B. UPS Store/Woodbury Pharmacy** – Review and discuss documents submitted for proposed interior alterations to the Woodbury Pharmacy to allow for the use of 400 square feet of existing floor area to be utilized as a UPS Store. Said property is located at 535 Route 32 in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 219-4-4.2 **The applicant did not attend the meeting. Therefore, the Planning Board decided to not act on the issue.**

Adjournment: con

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by S. Capriglione, to adjourn the meeting at 8:09 PM.

ADOPTED

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

Claudia Valoy-Romanisin, Planning Board Secretary