

**Village of Woodbury  
Planning Board Meeting  
December 15, 2021**

Minutes of the Planning Board Meeting held on December 15, 2021, at 7:30PM  
(Meeting held via Zoom)

Board Members Present: Christopher Gerver, Chairman  
Richard Cataggio  
Thomas DeLuca  
Evan Yan

Representing for the Village of Woodbury Planning Board:

Richard Golden, Attorney  
Natalie D. Barber, Engineer  
Jonathan Lockman, Planner  
Philip Grealy, Traffic Consultant

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 November 18, 2021. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

**ADOPTED**

AYES 4 Chairman Gerver, R. Cataggio, T. DeLuca, E. Yan  
NOES 0

Motion was offered by Chairman Gerver, seconded by E. Yan, to approve and accept the minutes of the meeting held December 1, 2021. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

**ADOPTED**

AYES 4 Chairman Gerver, R. Cataggio, T. DeLuca, E. Yan  
NOES 0

4. **New Business: N/A**

5. **Regular Agenda:**

- A. **Woodbury Shops (Woodbury Centre)** – Public hearing for Site Plan, Special Permit and ARB for proposed conversion of a large retail space (formerly Modell’s) internally subdivided into multiple boutique stores. Said property is located at 23 Centre Drive in Central Valley and is known on the Village of Woodbury Tax Maps as Section 225 Block 2 Lot 1.12

Chairman Gerver announced a notice was placed in the paper on Friday, December 10, 2021.

Architect Jason Anderson from ADG Architecture gave a brief description of what the project is about.

Planning Board Planner Jonathan Lockman referred to his NPV memo dated December 9, 2021. He said his comments have been addressed. The application on materials was updated, new window details and regulation table added. Since the landscaping was not provided by the previous owner the applicant wishes to have this waived. There is no proposal for exterior lighting, though there still an issue with signing noted on his memo.

NPV Memo:

7. Signs. The applicant proposes two (2) pylon sign panels to be inserted into existing slots (one facing in each direction) and one (1) backlit wall sign on the front façade of the building.

a. Per our memorandum of July 26, 2021, the applicant has confirmed that the two (2) “Woodbury Shops” pylon sign panels are the exact same dimensions as the sign panels that they are replacing. Our previous comments regarding the pylon sign panels have been resolved.

b. Wall signs with a maximum area of 10% of the total wall area are permitted in the IB District. The applicant has requested the Planning Board circulate the application to the Building Department and request a current interpretation on whether the maximum 10% of the “wall area” has been exceeded by the proposed sign, and whether a variance is needed. The Building Inspector’s previous ruling was that the code requirement limiting walls signs to 10% of the “wall area” does not refer to the entire building’s façade, but just to the uninterrupted piece of the façade wall where the wall sign is located. By this standard, it appears the maximum of 10% of the wall area standard has been exceeded. The uninterrupted façade as shown on sheet A-301 is approximately 640 sf in area, so 10% of that amount would be approximately 64 sf. The applicant argues that the proposed 104 sf of wall signage for Woodbury Shops is less than the existing sign square footage that was previously installed.

c. §310-30 (D) requires signs to have no more than two (2) typefaces for each sign, with no more than four (4) colors on any one sign. It appears that both the backlit wall sign and the pylon sign panels comply with these requirements.

Planning Board Engineer Natalie D. Barber referred to her H2M memo dated December 8, 2021 and began to note the discrepancies. The revised plans show a discrepancy on the location of the stairwells. She referred to her not on the site plan.

2. Site Plan – a) New Egress Locations / Utility Conflicts –

- i. The applicants site plan and architectural plans are inconsistent with respect to the rear egress locations and size. We recommend these be revised.
- ii. We recommend the roof leader locations be shown on the site plan and request the applicant confirm all locations of these existing features for consistency among plans (including elevations).
- iii. The applicant should resolve conflicts with the transformer pad, electrical meters, and power boxes.
- iv. The Fire Department has requested their connection be relocated and the current plan shows an apparent conflict with access to the existing location which should be resolved.
- v. The applicant shows a “rescue area” at the rear exit along the main corridor. This appears to be permitted by the NYS Fire Code. The applicant will be required to confirm the details of this assisted egress with the Building Department during Building Permit. You may wish to include this in your action. (Condition)

b) Layout and General Circulation – The applicant indicates all deliveries will occur at the rear of the building by way of an existing loading dock. As noted above, we recommend this be considered as a condition of your special permit. (Condition)

c) Utilities –

i. Water & Sewer – We note water service to Woodbury Centre is by the Village of Harriman and Sewer service is directly through Orange County Sewer District No. 1. Like your consideration of other spaces in Woodbury Centre, we recommend you require the applicant request will-serve letters from each of these utilities. (Condition) The applicant has confirmed there are no changes to the estimated water and sewer demand from the previous use. The applicant should confirm the new location of the Fire Department Connection on the site plan.

ii. Stormwater/Grading – The applicant indicates no exterior modifications require regrading. We recommend confirmation of roof leader locations and any necessary relocation of the same be provided due to the new egress locations at the rear.

iii. *Rooftop Equipment* – The applicant advises HVAC units shall be mounted on the rooftops. The Code (§310-45(10)) requires rooftop mechanical equipment be screened in a manner approved by the Planning Board. The applicant advises the existing parapet will screen any new rooftop equipment. We recommend you consider whether this is sufficient for you to evaluate this issue and consider any reasonable conditions of your action to ensure adequate screening.

She continues suggesting conditions for the draft Resolution of Approval as well as not receiving comments from the ambulance corps per her memo.

3. *ARB* – The applicant is seeking ARB approval for the proposed Shop's. Our comments and recommendations are as follows:

a) *Signage* – The Building Inspector has opined that the sign area is complying.

*With respect to illumination, the original approval for Woodbury Centre (Condition No. 23) requires "Site lighting shall be designed with non-glare fixtures, which provide internal shielding to eliminate off-site glare and to limit the foot-candle level at the site perimeter to 0.1 foot-candles. Light fixtures shall not exceed 35 feet to the top of the fixture. Signs shall only be illuminated during operating hours. General lighting shall be reduced to security levels after operating hours." You may wish to carry this condition to your current action.*

*The applicant also provided renderings of the proposed panels for the pylon signs. The new panels will replace prior panels and no changes in size are proposed.*

4. *ESO's* – In addition to the comment from the Fire Department, you have not received a response from the ambulance corp. We recommend you resend the application for their reasonable comments.

E. Yan asked for Engineer Barber to clarify the conflict regarding the transformer pads and meters and Chairman Gerver asked as well if the inside would be elevated due to the placement of the staircases and shared other concerns as well. Architect Anderson said he sent the wrong files causing confusion and preceded to explain using the pictures on screen the location of the stairs, the loading area, and what will be adjusted and what will be left alone. There was extensive discussion on the angle and width regarding rear of the building. Indicating an area on screen, Chairman Gerver noted the Fire Department's asking for the applicant to relocate the Fire Department connection to a more accessible area. Architect Anderson said they will certainly comply. Chairman Gerver added once the Board receives the updated plans, they will forward them to the Fire Department.

R. Cataggio asked if there will be a designated area for trucks to load/unload. The plans do not indicate an area and will there be more than one truck making deliveries since there will be several boutiques in the building. As per Architect Anderson there is one loading dock set for one truck at a time, they are not trying to change from what was previously there. Again, Chairman Gerver expressed his concerns vehicle access with the applicant's current plans so Engineer Barber asked if the applicant provided turning movements demonstrating access of vehicles around the proposed stairs. Traffic Consultant Dennis Lynch said they can provide turning radiuses once they have them. Planning Board Traffic Consultant Phillip Grealy recommended some additional dimensions to be added to that report.

Traffic Consultant Grealy referred to his letter dated December 10, 2021.

*Colliers Engineering and Design letter:*

*Dear Chairperson Gerver and Members of the Planning Board,*

*We have received the submission from Anderson Design Group dated December 1, 2021, which included a revised EAF and a memorandum prepared by John Canning of Kimley-Horn dated December 1, 2019. Based upon a review of the Kimley-Horn response to our previous comments dated November 11, 2021 regarding this, we have the following comments:*

*1. Based on the comments outlined in the memorandum, we agree with the conclusions regarding parking. Also, since the proposed retail use is consistent with general ITE retail trip generation, we do not anticipate any significant additional traffic generation from the conversion of the space.*

2. The issue of expected deliveries needs to be addressed in more detail as it relates to the number of stores and whether the loading areas are adequate to serve multiple tenants.

3. The memorandum indicates that the additional detailed traffic analysis that we requested, which would account for all the other re-uses on the site, and specifically analyzed the main internal intersections of Centre Drive at Dunkin and the site N/S Ring Road based on turning movement data, will be provided under separate cover. We will review that information in more detail when received and this may be more significant relative to the supermarket application.

He continues to suggest that if the applicant chooses to remove the proposed stairs it will give extra space for a van to maneuver with ease. Since having more stores will indicate more deliveries.

The Board had no additional comments; therefore, Chairman Gerver opens the floor for public comments for Woodbury Shops (Woodbury Centre).

There were no comments from the public.

A motion was offered by Chairman Gerver, seconded by T. DeLuca to close the public hearing for Woodbury Shops Woodbury Centre). Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

**ADOPTED**

AYES	4	Chairman Gerver, R. Cataggio, S. Capriglione, T. Deluca, E. Yan
NOES	0	

It was pointed out that the Board cannot make the last action due to the moratorium.

- B. Woodbury Commons/RMU** - Review proposed amended Site Plan and Special Permit for an increase in size of the previously approved Retail Merchandise Units from 50 sq. ft. to 100 sq. ft. within the Woodbury Common Shopping Center. Said property is located on Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lot 70.2 and Section 226 Block 1 Lot 1.

General – The application before the Board is for amendment to the prior RMU approvals to permit larger structures with varying architectural features to meet the branding needs of vendors. The applicant’s narrative suggests these facilities are currently used for “branded” and “small food” sales and they range from 54-SF to 96-SF. They provide renderings of the existing and proposed RMU’s, as well as branded type RMU’s for the Board to consider this request. This is listed for initial discussion.

Bill Pendergast, Vice President Of Construction at Simon Property Group gave a brief overview. They are before the Board to discuss RMUs (*Retail Merchandising Units*), which are temporary small carts onsite that sell trinkets or food. They would like these carts that originally measure 50 ft. to maximize to 100 ft. He continues to say there are 25 RMUs, and they do not expect them all to go larger than 50 ft. but they would like to accommodate those with more of a branding type. They do not wish to increase the number of RMUs, just the size.

Engineer Barber referred to certain comments in her H2M memo dated December 10, 2021. Where she pointed out the 2001 approval for RMUs and what the Board at that time clearly defined. Also, on how it may or may not affect the GLA due to the increase on size.

*H2M Memo:*

- 1. *RMU Definition – In 2001, your approval (appended for ready reference) provided a definition for RMU’s as follows:*

*By RMUs the Planning Board means Retail Merchandizing Unit: A structure, typically metal framed, with shutters or doors that enclose merchandize and are lockable; more like a structure or a building, but with*

wheels to make it movable. Shelving is built-in (but can extend out somewhat from the footprint). Salespeople cannot get inside the unit – they have to walk around to make sales.

RMUs are different from Pushcarts and Kiosks, which the Planning Board defines as follows: Pushcart: a portable cart, typically wooden, with two large “wagon wheels” on the sides, with two handles at one end to allow the cart to be pushed from location to location.

Kiosk: A structure, typically metal framed, with shutters or doors that enclose merchandize and are lockable. Are typically larger than RMUs and are more permanent and building like. Kiosks are usually movable. Salespersons make sales from within to customers without.

We recommend you consider the following with the applicant and whether the proposed units (see “Vendor Concept”) could meet the definition of an RMU:

- Will merchandise be enclosed by shutters or doors when not in use?
- Are the units lockable? • Confirm completely free movement?
- Will salespeople be within the structure?

With answers to these questions, we recommend you consider whether the proposal is consistent with your definition as an RMU or if it is more like a Kiosk.

2. *Number and Size of Structures – RMU’s are not included as GLA, but in 2001 the Board considered GLA in determining an appropriate number and size of these structures. They are currently limited to 50-SF, with no more than 25 operating at any one time.*

We recommend the applicant clarify the narrative that was submitted, which appears to indicate the range of units currently used are sized 54-SF to 96-SF. It may be that they propose units that could be up to 96-SF (rounded to 100-SF in the request).

With respect to size, we note Kiosks are currently permitted to be a maximum 216-SF except for the information booth and double kiosk that are 350- and 400-SF, respectively. This proposal is approximately half the size of a typical kiosk.

With an increase in size, we recommend you consider site circulation, moveability, but also whether these units should be included as GLA.

The applicant is not requesting a change in the number nor location of permitted RMU’s. We recommend you include this in any action you take.

3. *Circulation for ESO’s – Although your typical resolution requires maintenance of a 20-ft clear passageway, in 2001, it was determined that RMU’s being moveable could be permitted with a 12.5-ft aisle on both sides at all times, unless it was against a wall in which the open side should have a 12.5- ft aisle. We recommend the applicant provide a plan that shows the proposed RMU’s to scale in the previously approved locations to determine whether compliance with this condition could be achieved.*

Additionally, we recommend you consider whether a 12’ x 8’ structure could be easily maneuvered to allow ESO passage in an emergency. The applicant should confirm whether one operator could move the structure or if multiple persons would need to assist.

4. *ESOs – We recommend the application be referred for comments by the ESO’s.*
5. *ARB – The 2001 approval considered ARB for the RMU’s and indicates RMU’s are not permitted unless consistent with the Architectural Renderings submitted. The applicant is proposing a different style of RMU with flexibility to allow vendors to display branding. We recommend you consider whether this is appropriate and modify your prior approval as necessary.*
6. *Overall Plan – The overall “Kiosks, RMU and Food Truck Plan” provided, requires a modest revision to the legend identifying 2,195-SF of GLA is reserved for Kiosks.*
7. *Sales Restrictions – Your 2001 resolution (Special Permit Condition No. 7) prohibits food preparation for on-site consumption, but permits pre-packaged snacks including candy, nuts, and the like, as well as the sale of fruit. We recommend you consider with the applicant if “small food uses” and “ice cream” is consistent with this requirement or requires revision.*

9. *RMU Storage – Prior approvals indicate designated areas for storage of RMU's were decided. The applicant should indicate these locations on the plan and confirm the larger units could be managed in the designated storage locations.*

As per Chairman Gerver's question regarding Kiosks Mr. Pendergast noted that they have kiosks that have grown to 6 ft. x 8 ft., and 8 ft. x 10 ft. All are on wheels, a few have fold out roofs and are portable. There are a few onsite 9 months out of the year. Mr. Pendergast said they have enough storage to store a total of forty on site though the vendor specific ones go off-site when not in use. He assured the Board that these RMUs are portable and can be pushed out of the way. He made the distinction between a kiosk and an RMU, the kiosk has a foundation and are permanently attached and have full building permits and are not moveable.

The Board had a tough time agreeing with this new proposal and disagrees that it would be easy to move an RMU measuring 100 ft. especially in the case of a fire truck or emergency vehicle trying to get through. Even so when the applicant noted that the current RMUs are not that easy to move. T. DeLuca sees this as an opportunity to increase the GLA and Mr. Pendergast disagrees since RMU are not a permanent structure, since GLA counts as structures that are not portable. Chairman Gerver argued that anything that needs heavy machinery to move a structure would be considered semi-permanent and added that the concept of an RMU is to be easily movable.

David Mistretta, General Manager of Simon Property Group added that people do go to Woodbury Commons for the kiosks and RMUs, and they always have a full 20 ft. clearing around the property. He continues to say there are a few food carts are bigger due to health requirements.

Planner Lockman noted that in their submittal there is an RMU called Mango Verde (a juice bar) larger than 100 ft. He asked if the juice bar is connected to water and if not how is the RMU supplied with water. Mr. Mistretta said there are tanks that get filled by a hose daily. He is not sure if this cart has a sink, but they have a small area where they must do their washing.

R. Cataggio asked if there is currently an RMU that's 75 ft on site. Mr. Mistretta said he thinks the largest one Macaroon Café and Mr. Pendergast believes that one measures about 80 ft. Mr. Pendergast added there are currently a few RMUs that are larger than 50 ft., that the Building Department has allowed to exist.

Planner Lockman provided RMU images on screen of both vendor Mango Verde and those that are from Simon Property Group, showing a distinct difference in size.

The Board are not in favor of increasing the size of RMUs, especially since the applicant already have a few that are larger than what is allowed.

Attorney Golden clarified that the Building Inspector does not have to right to allowed something larger than what was approved and although it may have happened it is also subject to enforcement at any time to be restricted to the 50 ft. He said he will look at the original approval closely. Chairman Gerver and the rest of the Board agreed with Attorney Golden, they will have to go back and look closely at the original approval and go to the Woodbury Commons to look at some of the carts on site.

To help the Board, Chairman Gerver advised the applicant to address all the questions and comments from the consultants.

- C. Woodview Heights** - Review and discuss revised Site Plan submitted for proposed 13 lot subdivision. Said property is located on Hill Ave in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 204 Block 1 Lot 34.2.

Engineer John Loch began by saying they put together a set of plans reflecting the 13 lots. It has been reviewed by the Planning Board's consultants and they have received the consultant's comments as expected.

Engineer Barber noted that based on the site plan the applicant should submit freshwater wetlands permit and easement that will require for various utilities, access, and maintenance. She continues to say the last approval lapse, so the applicant is before the Board for a preliminary approval. She then pointed out comments in her H2M memo dated December 10, 2021.

a) Utilities

1. Ownership and Maintenance – At your last meeting the applicant confirmed a Homeowners Association (HOA) would not be established for this subdivision. If an HOA is not established, dedication of utilities and roads to the municipality is appropriate and should be indicated on the plan.

2. Tables – The applicant should provide a table listing all catch basin and manhole structures they are proposing. The table should identify the inverts, connections between structures, slopes, and RIM elevations for review.

3. Water – We note the following:

- Orange County Health Department review is required for the proposed improvements and extensions to the central water and sewer facilities.
- The location and specifications for hydrants, valves and all water infrastructure must be in accordance with the Woodbury Water & Fire Departments.
- The plan should have notes to identify line valves (two line valves are needed to satisfy 10 State Standards requirements for 800 foot maximum spacing in residential areas). Applicant should show these on the plan.
- Recent (circa 2015/2016) the Village complete work on the distribution system in this area that provided a connection from the “1020” pressure district to Highland Lake Estates. The work included the installation of an 8-inch DI water main along Hill Avenue. The plans currently show a connection to the “840” pressure district on either end of the proposed road. We believe the applicant should revise this to show connections to the “1020” district (8-inch DI on Hill Ave and Fillmore). The pressures at individual homes should be reviewed by the applicants Engineer, and if necessary PRV’s installed for the homes on the low point of the subdivision (Lot 2 and 12). Additionally, the uncertainty around Note 14 on the plans is resolved and the plan notes should be updated.
- The profile should be revised where it indicates a check valve manhole is associated with the water main.
- The applicant should provide individual profiles showing separation distances between water and storm/sewer crossings.

4. Sanitary Sewer – We note the following:

- Orange County DOH approval is required.
- All details must comply with the regulations of the Sewer Department.
- As noted previously, the sanitary sewer arrangement requires a sanitary sewer through an easement in rear yard areas and adequate access provisions must be provided to the manholes for maintenance. A detail of the access road should be added to the plan.
- The sewer collection system includes a pump station at a low point along the new roadway (station 5+25). The details of the station (Sheet 8) should be modified to suit the actual application (design will not be for 125 gpm at 188 feet of TDH). The location of the standby emergency generator should be shown and details for the enclosure of this facility provided. The applicant should advise why they have shown a chemical feed system and what is proposed. If known at this time, a pump curve indicating the operating point of the system should be provided.

5. Drainage/Storm Sewers – We note the following:

- A revised Stormwater Management Plan was submitted since our December 2020 review. The details of this will be reviewed and a separate memorandum provided with comments. However, on a high level there are apparent conflicts among the grading and stormwater features between the plans submitted with the SWPPP and the subdivision plat that should be resolved. The plans should be revised for consistency and the details for these facilities provided on only one plan set to avoid discrepancies in our review and in the future.
- On the subdivision plat, an 18-ft tall retaining wall with spillway separates the stormwater management pond from the existing wetland. The details of the retaining wall should be provided, and consideration of its constructability in this area as well.
- The applicant has advised the size of the homes are undecided and shows a 30' x 60' box on the plans which is used in the proposed impervious area calculations in the SWPPP. The SWPPP incorrectly indicates 25% coverage is permitted in this zone and should be revised to indicate 20%. Since the size of the homes are undecided and the ultimate arrangement of the homes on the lot is unknown, in order to accurately account for the stormwater management of the site, we believe the applicant should demonstrate the worst-case scenario for impervious coverage (20% of each lot) plus the road and other existing impervious features in their calculations. We believe this provides some confidence that the stormwater management facilities could work under a worst-case scenario, while providing some flexibility for the development of lots in the future.
- The stormwater collection system includes pipes conveying stormwater through rear yards (easement) where access will be required for maintenance. The access road detail should be provided (same as sewer access noted above). If the drainage system is proposed for dedication (presumed but to be confirmed), the applicant will need to meet with the Highway Department and review required access provisions. Additionally, the

applicants plan (Sheet 4), shows a 12-ft wide access road to the pond in this area. There are no means for a vehicle to turn around with steep slopes on either side of the proposed road. This should be considered by the applicant and a revised arrangement provided.

- The curb piece for inlets must be the ECO friendly type with DEC required stamping for draining to waterways.
- We note that at least one location has inadequate cover for HDPE pipe (see Station 16+00).
- The Highway Superintendent has requested the stormwater inlets on the north end of the access road be as close to Fillmore Court as hydraulically possible to reduce stormwater runoff to this area that already sees considerable runoff otherwise, additional drainage facilities may be required at Fillmore Court. This should be reviewed with the Highway Department.

b) Grading – Centerline elevations are provided along the road, but there is no consideration of how the grading to tie the road into the surroundings is considered. In certain areas the cut and fill of the road is up to 10-feet, which could impact driveway construction and development of homes adjacent to these areas. At a high level, the applicant should show approximate grading to accommodate the construction of homes and driveways that comply with your Code (§310-14). Additionally, as mentioned previously grading around the retaining wall and stormwater management pond should be revised as necessary for completeness and consistency among documents.

11. Ridge Preservation – This lot is above elevation 600 and is subject to ridge preservation review – nothing has been submitted thus far in this regard.

12. Water Quality Protection Overlay – The Water Quality Protection Overlay Map includes Saltzman Lake that is south of this property as a regulated water body. It is not clear if the wetland located at the South of the property is connected to Saltzman Lake acting as a “recharging freshwater wetland” to this waterbody. Available mapping indicates this could be connected, but the applicant should confirm.

R. Cataggio noted that the Saltzman Lake is a recreational lake for homeowners to fish. He said there is a stream that comes from the 13-lot through the wetlands into the stream especially on a rainy day and it’s not clear to him on how many trees will be cut down as well as the topic of the retaining wall. He asked that the applicant help clarified and define it.

As per Chairman Gerver’s concern to lot changes, Attorney Golden advised that the ZBA decision still holds even though the preliminary approval laps, therefore this is a new application before the Board. SEQRA must begin and there should be an FEAF (Full Environmental Assessment Form) part 1 filed. The Board cannot set anything different from what the ZBA has provided with respect to the variances.

Planner Lockman referred to his NPV memo dated December 10, 2021. Engineer Barber and Attorney Golden touched upon some of his comments and so he proceeded referring to the ones that were not addressed.

NPV Memo:

3. Lot Layout is Essentially Set. The variances obtained by the applicant legitimize and freeze the 13-lot layout and road ROW lines they have been working with since April 2018. Square footages of lots 8, 9, 10, 11, 12 and 13 have been set by variance down to the square foot. Lots 1,4,5 & 6 are conforming in size, but only exceed the minimum net lot area by only a few square feet in each case. Only lots 2,3 and 7 are significantly larger than the minimum net lot area. The result is that the road can hardly be moved at all, nor can any lot lines be shifted, with the need for amending the variances that have been granted. However, the Planning Board can and should now review the final plan application for compliance with all other zoning and subdivision requirements not subject to the variances granted. Items required to complete the application for its Final Plan stage are outlined below

4. Final Plan Submission Comments:

a. Finished Grading. In response to comment 4a of our previous memorandum, a grading sheet has been provided (sheet 4). However, proposed finished grades are only indicated for the detention pond between lots 2 and 3. Finished contours for the roads, driveways and house sites is not shown on the preliminary plans, and should be provided. See §272-26.I, §272- 28.L, 272-29.B

b. Sidewalks. No sidewalks are shown within the proposed subdivision. A sidewalk is present on Jefferson Street and Fillmore Court, and sidewalks are provided in other subdivisions in the neighborhood. See §272-26.S, 272-28.O

*c. Trees and clearing. Limits of clearing, existing large trees, proposed tree removals and street trees are not yet shown on any plans. See §272-26.S, 272-26.U, 272-28.O d. Lighting. Street Lighting is not yet shown. Is a waiver being requested? See 272-26.S, 272-28- O. e. Monumentation, Lot Corner Markers are not shown. See 272-28.H, J and K f. A Drainage Plan and SWPPP should be provided. We will defer to the Planning Board Engineers review of the proposed stormwater management. See 272-28.M and Q g. Hydrants. Per comment 4g of our previous memorandum, proposed hydrants now are shown on the planimetric site plan (sheet 3) See 272-29.E*

*6. Ridge Protection. Area is above 600 feet and elevation and will be subject to Ridge Protection standards of §310-13. See this section for required submittals and standards. Notes should be added to the plat so that future buyers will be aware of Ridge Preservation design and architectural requirements.*

Chairman Gerver asked if the design of the first home will set the tone for the ones to follow, if not every lot sold will have to appear before the Board for an ARB approval and it will delay the building process. Engineer Loch did not have an answer, he would have to discuss it with the developer. Attorney Golden advised that it be best the applicant to have multiple of models to define the area otherwise each of the applicants that wish to buy would think they can build anything and that would pose a problem.

The Board in agreement would like to see sidewalks on the plan. There are a lot of people in Woodbury that walk, and they would like to provide safe passageway, the same for street lighting. It was noted that there should be some street lighting for those who walk at night.

Chairman Gerver noted that he spoke to the Chief of the Fire Department, and he is fine with the layout on the fire hydrants. The Chairman also noted that as per Ridge Preservation it would be addressed case by case due to no ARB.

Attorney Golden advised that plan notes should be added to the subdivision plan setting forth that there is no ARB approval, and every buyer will have to obtain an ARB approval and Ridge Preservation approval would be at their cost. The notes will be the new buyers on notice legally.

It was noted by Planner Lockman that if a house is in the watershed protection buffer, they will have to go through the watershed protection buffer process. Therefore, in the next submittal the applicant should show which lots fall in the watershed protection overlay.

Attorney Jay Myrow wanted to clarify with Attorney Golden whether SEQRA is an uncoordinated or a coordinated review. Attorney Golden said if the ZBA was still involved then it would be going forward as an uncoordinated review, however he thinks it is appropriate to go forward with a coordinated review not including the ZBA as an involved agency.

- D. Freidman** - Review and discuss revised Site Plan and Special permit for proposed conversion of an existing 1,000 sq. ft. addition of a single-family home to be used as a Place of Worship. Said property is located at 32 Blueberry Lane in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 217 Block 2 Lot 4.2.

General – This improved 1.49-acre property with an existing two (2) story single-family dwelling is located at the end of a cul-de-sac, Blueberry Lane. The property borders Cromwell Lake to the East and Skytop Road to the South. The applicant proposes converting a portion of the existing dwelling to a Shul and adding other site improvements, primarily related to parking and sidewalk, to accommodate this use. Where the application does not meet Code requirements in the Schedule Of Zoning Regulations; the Planning Board has discretion to waive the requirements for a religious use if it is demonstrated that strict adherence to the code would place a substantial burden on the religious exercise of a person, religious assembly, or institution. However, if the development does not meet Code requirements and the hardship is not demonstrated, the applicant will need a variance from the Zoning Board of Appeals.

Engineer Alfred Fusco representing the applicant said back in October they had received comments and additional information was forwarded to the Board for review. He addressed one of the comments that had to do with an easement and both property owners agreed to a settlement which has been submitted to the Board. As per parking they have provided eight parking spaces and six bank parking spaces. The Shul will be a neighborhood Shul, so they are asking that some of the bulk requirement be waived. He continues to say that a dye test was done on the sanitary system. Calculations of the flow

was done for both Mikvah and Shul as well as the residential home. There will not be any work done on the exterior of the home, other than landscaping.

Chairman Gerver reminded the applicant that the narrative demonstrating substantial burden has yet to be submitted. A requirement needed to determine whether certain items should be waived. Attorney Golden said two letters have been submitted and those letters do not demonstrate substantial burden on the exercise of religion. Engineer Fusco said he will try to get that narrative and resubmit it.

Engineer Barber referred to her H2M memo dated December 10, 2021. In the applicant's recent submission, they address a few but not all comments.

*H2M Memo:*

*c) Parking – The Code (§310-40) requires a residential dwelling have two (2) spaces per dwelling unit and a place of worship have one (1) parking space/200 square feet of gross floor area or one (1) space/three (3) seats whichever is greater. The floor plans submitted show 2,763-SF of area will be designated for the Shul. Parking required based on worshippers (12-adults and 15-children expected) requires 9 spaces. We understand it would be expected children are not going to drive, but parking calculations do not discriminate based on adult/children occupants. However, you could consider this in the parking waiver request. Parking required based on Shul floor area (2,763-SF) is 14 spaces. Based on this assessment it appears 16 off-street parking spaces are required. Eight (8) offstreet spaces are shown on the plan with proposed six (6) landbanked spaces.*

*The applicants' calculations on the plan should be updated as indicated above. Additionally, we note the narrative summarizes the total required spaces appropriately, but the calculation based on Shul area requires a modest typographical error that should be revised. In addition to the number of spaces required, we believe the following issues related to parking should be clarified:*

- [§310-42.C.(2)] Applicant should confirm the screening requirements for parking spaces adjacent to residence districts are met. Landscaping between the retaining wall is now shown and the applicant proposes to extend the hedgewall for screening the landbanked parking area (if constructed). We defer to your Planner for acceptability.*
- [§310-40.C.] The Code allows the Planning Board to reduce the Code required number of parking spaces up to 25% if a use or combination of uses on a single lot will generate parking needs less than the Code requires. Furthermore, in the case of "places of worship" your code allows for non-compliance if the parking requirement would "place a substantial burden on the religious exercise of a person, religious assembly or institution". In such cases, the Planning Board has discretion to determine the appropriate amount of parking. Your traffic consultant provided their comments on this application in February 2020. We recommend you consider the parking waiver request with them on review of a revised set of plans.*
- We recommend your traffic consultant review the parking arrangement proposed and whether access to the spaces is adequate. The applicant has advised they do not prefer to create a more uniform lot and find the angled spaces adequate.*

*2. Site Plan -*

*a) Utilities –*

*a. Water – The site plan shows the location of an existing on-site well and another well house to be abandoned. The applicant should confirm the existing well will be reused and is not a new well that is proposed, if it is existing it should be noted on the plan as such.*

*The applicant has revised their water usage calculations to reflect 27 worshippers, a 3- bedroom home, and Mikvah. They have indicated separately that a water softener is not required. If no other treatment is required, then the total water and sewer usage of 785 GPD appears appropriate. The applicant has submitted a letter to the Department of Health (dated October 14th) requesting an opinion on this use as a public water supply. Additionally, they have conducted an abbreviated test on the supply indicating 5 GPM is achieved at the hose*

*bib. More details on this test should be provided including how long the test was conducted. The applicant should provide status on the plumbing of the home and if a tank exists. While you wait for a response from the Department of Health we recommend you request the applicant provide a well completion report that provides additional information on the construction of the well.*

*The applicant submitted the results from the water quality tests performed in accordance with the DOH recommendations. We note sodium levels are 79 mg/L and while a maximum limit is not specified, the Department notices residents that “Water containing more than 20 mg/L of sodium should not be used for drinking by people on severely restricted sodium diets.” However, the results are acceptable for the proposed use and the homeowner should be provided with a copy of the results and findings for their records.*

*The Code requires “Documentation of the quantity and quality of water based on samples taken by and tests submitted by a qualified laboratory under the review of the office of the Village Engineer as a condition of approval. Said conditions shall be satisfied prior to map signing by the Chairman of the Planning Board” [§310-45.I.(1)(a)(25)].*

*b. Wastewater Disposal – The applicants plan identifies a 1,000-gallon septic tank and leachfield location on the plan, the Engineer’s correspondence indicates this is verified.*

*DOH regulations require a minimum tank size for 3-bedroom homes be 1,000-gallons. The DEC recommends tanks be sized according to criteria that is 1.5 x average daily flow, which would require a 1,178 Gallon tank or 1,250 Gallon in accordance with standard sizing. It appears with the addition of the Shul, the 3-bedroom home, could require a larger septic tank. The applicant should advise.*

*The applicant’s response to our other comments indicate the tank is concrete, which alleviates concerns that a plastic type system could be in disrepair. The applicant’s Engineer has provided a certified letter advising a test using 1,800 gallons of water was performed and no issues were observed. We believe this volume of water is sufficient to tax the system, however, the applicant should confirm a sufficient amount of dye was used so that it would be detected in the leachfield. The type and size of tank, as well as the amount of dye used should be included in the certified report including advice on the size of the tank and sufficiency for this application.*

*We recommend any action you take restrict the Shul occupancy and number of bedrooms indicated to maintain water and wastewater limits within the capacity proven.*

*-Accessibility – A note on the plan indicates an existing concrete walk will provide handicap access to the building. The plan indicates the existing slope is adequate per ADA requirements. We recommend the applicant confirm where curb ramps and detectable warning surfaces are proposed on the plans as shown on the details sheet.*

Other than these comments Engineer Barber said the application is moving along.

Planner Lockman referred to his NPV memo dated December 10, 2021. The applicant has address many of his comments. The new submission shows the use of each room along with the sizes and square footage as he recommended in his previous comments. Though the date on the new submission shows November 2019 which should be revised. Planner Lockman mentioned the detail of the site distance from the driveway is missing on the new plan. He also mentioned that on October 14, 2021 a letter was sent out to the County Health Department regarding whether the well would be considered a public water supply or not. There hasn’t been a response yet. He also pointed out a comment on his memo.

*NPV Memo:*

*11. Regarding comment 12 of previous memorandum, the applicant’s submittals are all based on a projected maximum capacity of 12 worshippers and 15 children at this 2,763 square place of worship, which is well beneath the physical capacity of the structure pursuant to the uniform code. The sanctuary is approximately 1,000 square feet, which could accommodate 66 worshippers if a rate of 15 square feet per seat is applied (using uniform code standards). The Planning Board may wish to place a condition of approval imposing the maximum capacity proposed by the applicant.*

Engineer Fusco thanked the consultants and asked about the moratorium. Chairman Gerver explained it is up for discussion in January 2022 with the Board of Trustees.

- E. Eastgate Mgmt. 300 Forest Rd ARB** – Review and discuss plans received for ARB and Ridge Preservation of proposed addition to an existing single-family dwelling. Said property is located at 300 Forest Road in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 213 Block 1 Lot 63.

Attorney Jay Myrow introduced Isaac Weinberger the applicant and Engineer Brad Cleverly. Attorney Myrow began giving a history of this application. Mr. Weinberger presented plans for an addition to the Building Department and at that time the ARB code requirement was not in effect and with the permit that he received he installed the foundation. Mr. Weinberger decided to revise the plan, so he stopped construction. He went back to the Building Department to revise the permit and at that time the ARB code was enacted. Building Department explained the applicant will now need an approval for ARB to revise the permit. The existing permit has not expired. Mr. Weinberger explained the footprint of the plans have not changed, the elevation changed, a single-car garage was added, and the roof was changed.

Planner Lockman referred to his NPV memo dated December 9, 2021. He listed items that need to be done. The revised plans showing the elevation of the house, a separate sheet showing the revise site plan and existing conditions, need the plot plan, landscaping plan (that shows trees that are to be preserved and removed within the area of the addition and proposed plantings.), and lighting details. Planner Lockman continued to point out comments in his memo.

*NPV Memo:*

*8. Bulk requirements*

*a. Lot Area. Per our memorandum of July 29, 2021, we asked the applicant to provide information on when the lot was originally subdivided in order to determine if the property can be considered a nonconforming lot of record, pursuant to §310-43.1. According to the applicant, the dwelling was constructed in 1961. Lots subdivided between 1953 and July 12, 1990, require a minimum lot area of 20,000 SF. The lot is 45,209 SF. It appears the lot is a nonconforming lot of record and complies with the minimum lot area.*

*b. Side Yard Setback. The proposed addition encroaches into the north-facing side yard setback by approximately seven (7) feet. The location of the addition should be changed, or an area variance will be required.*

*c. Lot Coverage. Per our memorandum of July 29, 2021, lot coverage calculations have been updated to include improvements to the driveway.*

*9. Landscaping. See comment 4a above. Any proposed tree removals must be shown on the Plot Plan. In addition, please submit a separate landscaping plan.*

*10. What does the applicant propose to do with the space labelled “driveway to be removed”? Will a footpath be installed leading to the front door? Please clarify.*

*11. The Plot Plan shows the driveway overlapping with the building footprint of the proposed addition. A new driveway design should be proposed to accommodate the addition. These details must be shown on the Plot Plan.*

As per his comments on Ridge Preservation, the color of existing home is white and the proposed siding for the addition is listed as white Hardie Board & Batten. The Board has allowed the color white in home addition though this addition looks larger than the existing house, so the Board should discuss whether the color is acceptable. He agrees that it is not visible from the designated view corridors.

*Ridge Preservation*

*12. The site is located at approximately 884 feet in elevation, subject to the Ridge Preservation standards of the Zoning Code §310-13. We offer the following comments with respect to the following subsections of §310-13. B:*

*a. Section 1: The applicant states that the proposed addition will not be visible from any designated ridge preservation view corridors. After investigating through Google Earth, Orange County GIS, and Google Streetview, we agree that the dwelling is not visible from Seven Springs Road (Route 44), or any other view corridors.*

b. Section 2: This section contains new language, adopted October 28, 2021, which reads:

*“In order to satisfactorily blend the structure into the natural environment and mitigate visual impacts, the exterior walls of a structure shall be clad in wood, brick, stone, stucco, vinyl or fiber cement board or fiber cement siding and shall be non-reflective, nonglossy earth-tone or similar neutral colors. Aluminum cladding and Exterior Insulation and Finish Systems (EIFS) cladding are not permitted. Earth tone or similar neutral colors are colors such as brown, green, grey, terra cotta, and muted autumn colors that, in the opinion of the Planning Board, appropriately and naturally blend in with the tree cover. The use of white and similar bright colors that do not blend in with the tree cover in the opinion of the Planning Board are not acceptable. The Planning Board shall have the discretion to permit the use of non-natural building materials in connection with applications where existing originally approved and constructed structures consist of nonnatural materials, and the application is for an addition that is substantially less in mass and/or appearance than the principal structure.”*

*The applicant proposes white Hardie Board & Batten siding. This material is adequate, however, white is not an acceptable color choice for new construction. Given that the proposal is to add to an existing home, the Board should discuss whether the white color will be acceptable. The applicant also proposes “black Montrail” alpine ledgestone to a portion of the exterior wall, which appears to comply the Ridge Preservation standards as a “natural color.”*

c. Section 3: This section requires that roof slopes also be of natural color. Charcoal is specified which appears to meet the standards. GAF Timberline 3-D shingles are an adequate material.

d. Section 4: The applicant should confirm that proposed glass will not be reflective. A note should be added indicating that anti-reflective window film should be applied. This will not reduce the effectiveness of the low-e windows.

#### *Architectural Review/Planning*

*13. The project is subject to the Architectural Review process of Chapter 8 of the Woodbury Code, and particularly the standards of §8-5 and §8.8. To evaluate these standards, the Planning Board requires submittal of information on the sizes, heights, and styles of homes adjacent to and/or near the subject property of the applicant. Pursuant to §8.5.A, the Planning Board may deny an application by reason of:*

*“Excessive similarity, dissimilarity or inappropriateness in relation to itself or to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application, facing upon the same street or within the same or surrounding neighborhood, including neighboring developments, in respect to one or more of the following features: 1) Exterior façade of all building sides, including, but not limited to building materials, mass, roof line, architectural style and authenticity, colors, size, proportion, roof design and height. 2) Size and arrangement of doors, windows, porticoes or other openings or breaks in the façade, including reverse arrangement, 3) Footprint and gross floor area including all or portions of the structure.”*

*This house is existing, and an addition is proposed. The applicant has submitted photographs of nearby homes to show the relationship of the proposed project to the homes surrounding it. The extension appears to double the size of the existing home. The square footages of the nearby comparable dwellings should be included in each the photographs. This will allow the Planning Board to determine the proposed project’s level of similarity or dissimilarity as described in the code above. In addition, the photograph of 310 Forest Road is not visible, and the photograph labeled Koritz Court is of a subdivision and not of a specific house.*

Chairman Gerver said most of the homes in the area are either white or cream, therefore in this case the color white is acceptable to him. As for similarity dissimilarity there are multi-family homes surrounding the home in question that are similar, so he does not think it will stand out. E. Yan agreed with the Chairman.

Attorney Golden advised that the applicant may have to go to the ZBA for a variance. He said the Board cannot approve a building that is outside of the code requirements. The unusual part of this application is there is a valid permit that was issued prior to the new law. Attorney Golden said that in respect to the common law vested rights where money has been spent and the land has been modified to an extent that the new provisions would pose a problem; it will need to be demonstrated the applicant. Attorney Myrow agreed, he wants to be able to have that opportunity. Both attorneys agreed to have a meeting sometime after this meeting.

Attorney Golden advised the Board that this should be a Type II Action under SEQRA, the application is exempt from the moratorium, it was referred to the GML on December 13, 2021 (no response yet), and public hearing is required. To Attorney Myrow understanding the public hearing can be waived under the ARB law. Attorney Golden will take a closer look and the Board can make that determination later.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to have this as a Type II Action under SEQRA. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

**ADOPTED**

AYES	4	Chairman Gerver, R. Cataggio T. DeLuca, E. Yan
NOES	0	

- F. ML & YD Inc./ARB** – Review and discuss plans received for ARB and Ridge Preservation of proposed single-family dwelling located on Lot # 8 within the Timber Trail subdivision. Said property is located at 8 Hallock Court and is known on the Village of Woodbury Tax Maps as Section 237 Block 2 Lot 12.

Architect David Niemotko representing the applicant began by saying the first house in the subdivision has been constructed and it is on lot #8. The Building Inspector have inspected it. Although its not finished, it has been framed, sheathed, and framed with plumbing and electrical. He said the owner would like to amend the ARB decision that was made back in 2015. This application is for this one house, the owner wants to add more details to the farmhouse design. The design of the house stays the same they would like to just change the materials to a white stucco finish with synthetic wood surrounding the windows and add a gray stone veneer. He made it clear that the changes are specifically to this house only. Architect Niemotko displayed renderings for the Board to see.

Planner Lockman referred to his NPV memo dated December 9, 2021. He asked that Architect Niemotko submit the two style homes that were approved back in 2015, along with photographs of nearby homes.

*NPV Memo:*

*1. The applicant should submit elevations of what was previously approved so the Board may compare the previous approval to the current proposal.*

*2. Photographs of nearby homes, showing the relationship of the proposed project to the homes surrounding it from the previous approval may be re-submitted for the purposes of Comment 3.*

*Architectural Review 3. The project is subject to the Architectural Review process of Chapter 8 of the Woodbury Code, and particularly the standards of §8-5 and §8.8. To evaluate these standards, the Planning Board requires submittal of information on the sizes, heights, and styles of homes adjacent to and/or near the subject property of the applicant. Pursuant to §8.5.A, the Planning Board may deny an application by reason of:*

*”Excessive similarity, dissimilarity or inappropriateness in relation to itself or to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application, facing upon the same street or within the same or surrounding neighborhood, including neighboring developments, in respect to one or more of the following features: 1) Exterior façade of all building sides, including, but not limited to building materials, mass, roof line, architectural style and authenticity, colors, size, proportion, roof design and height. 2) Size and arrangement of doors, windows, porticoes or other openings or breaks in the façade, including reverse arrangement, 3) Footprint and gross floor area including all or portions of the structure.”*

*This house has previously received ARB approval, and revisions to its exterior finishes are proposed. The applicant should submit photographs of nearby homes per comment 2 above, with their existing styles, sizes, heights, and configurations, in adequate detail for the Planning Board to determine the proposed project’s level of similarity or dissimilarity as described in the code above. Specification of the proposed materials and colors have been provided.*

Homes in Timber Trail are mostly townhouse/condos are of wood and dark colors, the new home in the new subdivision is more modern looking and with the new proposed materials not all members of the Board find the materials acceptable. Before making a decision, the Board decided they will visit Timber Trail to take a better look at the homes.

A motion was offered by Chairman Gerver seconded by T. DeLuca, to schedule a public hearing on January 5, 2022, for ML & YD Inc./ARB. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

**ADOPTED**

AYES 4 Chairman Gerver, R. Cataggio, T. DeLuca, E. Yan

NOES 0

A motion was offered by Chairman Gerver, seconded by E. Yan, to have this as a Type II Action under SEQRA. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

**ADOPTED**

AYES 4 Chairman Gerver, R. Cataggio T. DeLuca, E. Yan

NOES 0

Attorney Golden is permitted by the Board to draft a Resolution of Approval for ML & YD Inc./ARB to have ready for their next appearance.

**Adjournment:**

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by T. DeLuca, to adjourn the meeting at 10:10 PM.

**ADOPTED**

AYES 4 Chairman Gerver, R. Cattagio, T. Deluca, E. Yan

NOES 0

Claudia Valoy-Romanisin, Planning Board Secretary