

**Village of Woodbury
Planning Board Meeting
August 3, 2022**

Minutes of the Planning Board Meeting held on August 3, 2022, at 7:30 PM.
(Zoom Meeting)

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

Representing for the Village of Woodbury Planning Board:

Kelly Naughton, Attorney
Natalie D. Barber, Engineer

Board Member(s) Absent: None

Also Present: Andrew Giacomazza, Mayor

Chairman Gerver opened the meeting by announcing to the public that the Legislator had extended the public meetings to August. Falling within the guidance the Governor issued, August 3rd and August 17th meetings will be held virtual. The Chairman then proceeded with the Pledge of Allegiance.

1. Executive Session: No Executive Session was necessary.

2. Public Comment: No member of the public had comments.

3. Regular Agenda:

- A. Avalon** – Review the status of the project for the proposed 4-story 130-room hotel at 94 Turner Rd in Central Valley. Said property is known on the Village of Woodbury Tax Maps as Section 226 Block 1 Lot 5 and 6.2.

Present The Applicant Paul Oliveira Engineer John Queenan from Lanc and Tully PC, Engineer Frank Filiciotto from Creighton Manning Engineering.

Engineer Queenan began saying their last appearance before the Board was in February 2021 and they are before the Board tonight to give them an update on the application. Engineer Filiciotto began saying they have been working on the traffic study for this project and another hotel application. He said the Department of Transportation has given the go-ahead on their conceptual design for the intersection and what they are asked to do is to develop detailed design plans for the connecting road. Engineer Filiciotto continued to go into details of the site plans by providing more insight and the plans on screen for the Board to review. Attorney Kelly Naughton advised that what's shared by the Applicant should be part of the next submission. Engineer Filiciotto acknowledges. He continued to show certain parts of the plan and confirmed that the DOT is so far happy with what they've seen so far.

The Board at this time had no questions, Engineer Filiciotto thanked the Board for their time.

- B. God's Grace Ministry** – **Public Hearing** for proposed site plan and special permit for change of use to include the place of worship within the shopping plaza known as Oak Clove Mall. Said property is located at 228 Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 229 block 1 Lot 28.

Chairman Gerver opened the floor to the public for comments regarding the God's Grace Ministry.

Resident Alex Prizgintas said he lives on Shut Place. He began to express his concern about the God's Grace Ministry becoming a school later in time. He asked if the Applicant could just turn its use into a school without notice.

Chairman Gerver explained the process an Applicant must take before converting a use. If the church decides to make any changes to its service, they are to return to the Planning Board and amend its site plan application and obtain a special permit and do the necessary research and approvals to support that a school of any type could be supported in that shopping center. The Board then helps the Applicant to follow the code. Mr. Prizgintas asked if having a house of worship makes it easier to convert. The Chairman said no, each application stands on its own. , each use has its requirements. Board then helps the Applicant to follow the code(s). M. Pastel added that its subject to an annual review.

Due to the absence of the Applicant, the Chairman offered a motion.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to extend the public hearing to August 17, 2022, for God's Grace Ministry. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

- C. **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

Present Applicant Irene Ishak, Mark Ferrante Representative from UPS Store Corporate Office, and Ron Morency Representative from UPS Store Corporate Office.

Engineer Natalie Barber mentioned the last appearance of the Applicant was back in April of 2021. She then proceeded to touch on certain comments from her memo. Noting that the Applicant was referred to the Zoning of Appeals for an issue related to the sign area and the number of colors proposed.

H2M Memo dated July 29, 2022:

1. Zoning –

a) Use – Both the existing and proposed uses are considered retail and permitted special permit uses in the HB Zone with site plan approval.

b) Bulk Regulations – Since both uses are retail and no exterior modifications are proposed there are no impacts on your bulk criteria.

c) Parking – Since the parking requirements for retail are based on gross floor area (1 space / 200 SF), the addition of another retail use does not affect the parking required for the site. The parking requirements for 3,400 SF of retail is 17 spaces. The plan submitted shows 17-spaces and is complying.

2. Site Plan – As requested previously and required by your Code the applicant submitted a current site plan showing changes to the site since prior approvals. The plan should be signed and sealed by the professional preparing the plan and if it is based on survey the date of survey should be noted. Additionally, minor modifications to the title block are required (name of store and updates to sheet numbering).

3. Signage – The current proposal for signage should be confirmed with the applicant. Previously they proposed to add a panel to the existing freestanding sign on Route 32. The proposed panel was to be below the existing (no increase to the sign height was proposed). Furthermore, the location of the freestanding sign was to remain the same.

a) Colors – Your Code (§310-30(D)(1)(e)) allows a maximum of three uniform colors for multitenant directory signs. Previously each sign panel had three colors, and the total directory sign would have five colors. Since their prior appearance, zoning has changed to permit the Planning Board to modify the restriction on number of colors permitted where:

i. The proposed additional colors are not deemed by the Planning Board to be distracting to drivers, or

ii. If the proposed additional colors include nondistracting shades of the same color.

We recommend you consider whether a modification to colors permitted is appropriate in this instance.

b) Size – A maximum size of 20 SF is allowed for freestanding signs in the HB Zone. The new panel size appears to match the dimensions of the Woodbury Pharmacy panel, applicant to confirm. From the dimensioned renderings, which are slightly blurry, we believe the proposed sign panel is 110” x 23” (applicant to confirm), equal to 17.6 SF. If the existing panel is similar the total sign area (35.2 SF) is noncomplying requiring a variance from the ZBA.

4. Deliveries – At your last meeting you discussed pick-up and drop-off of packages for the UPS Store. The applicant advised drop-offs would occur in the rear of the building where deliveries occur for the Pharmacy. You discussed including this as a condition of your action.

5. Entity Disclosure Form – As discussed at their last appearance, the applicant should provide a revised Entity Disclosure Form

6. SEQRA – Counsel previously advised the action is Type II under SEQRA. The Board should make this finding to conclude your review. 7. Public Hearing – A public hearing is required for this application and remains to be scheduled

Mr. Ferrante asked for clarification as to what is needed to provide it to the Building Department. Mr. Morency added that they have adjusted to using a pylon sign, and the renderings will be provided. Chairman Gerver listed outstanding items and the following steps to be taken, which are the renderings for the sign, the entity disclosure form, the scheduling of the public hearing, and a demonstration as to how there won't be an increase in water usage due to the current moratorium for construction. If the Applicant is unable to demonstrate the usage of the same or less water, then the Applicant will need a Hardship Waiver to move forward. A requirement for all Applicants.

A motion was offered by Chairman Gerver, seconded by E. Yan, to schedule a public hearing on September 7, 2022, for UPS Store/Woodbury Pharmacy. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

Engineer Barber confirmed that for a pylon sign the code permits only one freestanding sign on any lot and the area requirements are 20 sq. ft. overall. Mr. Morency clarified that under the current pylon sign, underneath that sign it will be a UPS sign (a panel). M. Pastel asked if the UPS store will be a full-service store or a drop-off service. Mr. Ferrante said it will be a full-service store.

Mr. Ferrante asked how they will be notified when placed on the agenda. The Chairman explained the process and how it may or may not be virtual as per the Governor's decision on extending the public hearing.

- D. **Mera/ARB 6 College** – Review and discuss documents submitted on the ARB and Ridge Preservation application for proposed changes to existing single-family dwelling to include stucco on the front façade, entrance portico, and driveway carport. Said property is located at 6 College Drive in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 245 Block 2 Lot 8.

The Applicant did not attend the meeting; therefore, the Planning Board decided not to act on this issue.

- E. **Hartman/ARB 2 First** - Review and discuss documents submitted on the ARB and Ridge Preservation application for the proposed addition of a story to an existing dwelling. Said property is located at 2 First Avenue and is known on the Village of Woodbury Tax Maps as Section 214 block 6 lot 5.

Present Designer Larry Hartman from Hartman Designs.

Designer Hartman began saying he submitted a booklet. He began saying it's an existing dwelling with a missing porch in the front. There's a 3-D rendering of the final look of the house. In that rendering, there's a driveway and a walkway, and verified he is not adding a driveway, the old driveway will be left alone. He continued to say that it's a one-story house, and they are not planning to raise it. They are looking to add a floor somewhere in the middle where the windows are currently located and raise those windows a little and add basement windows. Designer Hartman said they would not be raising the roof at all, just a rearrangement of windows. He continued to go over the renderings with an explanation as to how they will be processed.

M. Pastel asked for the number of bedrooms. It was confirmed there's a master bedroom on each floor plus two on the basement floor.

Engineer Barber said there are a couple of issues with this application that she wanted to clarify. She thought this was a single-family home occupied all year round, so she asked if it was a seasonal duplex dwelling or if it's currently proposed as one. Designer Hartman said there are currently two applications, one is a duplex proposed as a duplex, and the other is the single-family, proposed as a single-family house. Engineer Barber thinks this application may be classified as a seasonal dwelling, and so she believes this application should be in for a conversion from a seasonal to a year-round dwelling. Adding, as per code, there are necessary steps that need to be done to do so. Designer Hartman said he doesn't believe the lot is seasonal since it has its section block and lot, not part of the bungalows in the area. He pointed out two seasonal properties, one on First Avenue and the other down the road. An issue that needs clarification.

Engineer Barber then referred to comments on the H2M memo dated July 29, 2022.

H2M Memo:

1. Zoning –

a) Use – Single-family homes are permitted in the R-2A zone.

b) Bulk –

i. Area – According to the survey prepared in 2021, the lot is 0.2242-acres (9,766-SF) and undersized for the R-2A zone which requires 2-acres minimum.

ii. Setbacks – As mentioned above, the lot is a corner lot with frontage on Schunemunk Road and First Avenue. The survey shows the existing home (prior to infill, rear and deck additions) does not meet the setback (two front-yards, side, nor rear yard) requirements of the zone.

iii. Coverage – The applicant should provide coverage calculations for the proposed home. We note the rendering shows substantial areas designated to walkways and drive aisles that are not shown on the survey. If it is the applicant's intention to construct these paved areas, they should be shown on a plot plan for your consideration.

We recommend you confirm with Counsel how these issues (lot area, setbacks, coverage (TBD)) impact your review and whether the applicant requires any variances to proceed.

She noted that on her memo there are comments on ARB and Ridge Preservations, but Chairman Gerver said this application will be a referral to the ZBA. He continues to say that the county has this dwelling listed as a duplex, a seasonal duplex in section A Admiral Park Incorporated. Attorney Naughton said this application requires a referral to the ZBA; also, the conversion should be part of the application to have it for year-round use. She believes the Building Department has this on record as a seasonal dwelling. She continued by saying this application will require a special permit from the Planning Board, depending on the outcome with the ZBA. Attorney Naughton also noted a number of a code for reference which is 310-26. It lays out five elements that need to be proven before the Board. Trying to organize his tasks Designer Hartman asked if they still have to present themselves to the ZBA if there are no changes house. Attorney Naughton said if no changes are done the Applicant can consider moving forward with the conversion application, though the site plans show additions.

A motion was offered by Chairman Gerver, seconded by M. Pastel, to type 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 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to authorize Engineer Natalie Barber to refer the application over to the Zoning Board of Appeals. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

- F. **Spitzer/Millwork Showroom** - Review and discuss revised documents submitted for proposed Special Permit and amended Site Plan to permit a change in use to a Millwork Showroom. Said property is located at 279 Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 230 Block 4 Lot 4.2.

Present Designer Larry Hartman from Hartman Designs

Designer Hartman began by saying there were some comments from the Board and the Engineer that they addressed. He began to list them, the chain link fence was changed to a wooden fence, and the submission of the Water and Sewer Demand Form

and the loading births were corrected. He continued by saying last month the Village Board of Trustees added two exceptions to the moratorium and he believes this application can be exempted due to those new regulations. As a mill workshop, he believes the water use will not increase but decrease instead. The square footage will not change; therefore, he asks that the Planning Board vote on this application. Regarding ARB, Designer Hartman said a new ARB was provided regarding the color change.

Engineer Barber began referring to comments in her memo and she started by mentioning her recommendations on conditions and items that should be noted in the Applicant's plans.

H2M Memo dated July 29, 2022:

I. Zoning –

a) Use – (Informational) The applicant proposes to convert 2,975-SF of the building previously used as auto showroom to showroom for Millwork and furniture sales. In the HB zone a retail establishment is a permitted Special Permit Use with Site Plan approval. The remaining 7,325- SF is to be dedicated to two-autobody repair shops with maintenance area. An automobile repair use, not distinguished in your bulk tables by autobody repair, is a permitted Special Permit Use with Site Plan approval in the HB Zone. Counsel has confirmed the prior body shop was permitted as accessory to the car dealership, however, this proposal for two new autobody repair shops would now be considered a new principal use requiring Special Permit with Site Plan review. Nonetheless for the purposes of our review, we have considered the existing autobody repair for intensity impacts understanding this has been in operation on this site for a number of years.

The applicant has confirmed that production and manufacturing of millwork will not occur at this facility, we recommend this be a condition of your action. (Recommended Condition)

Use as an autobody shop may require permit and/or registration with the New York State Department of Environmental Conservation (DEC). We recommend proof of compliance with DEC requirements (permit or registration) be required as part of your action prior to certificate of occupancy. (Recommended Condition)

b) Bulk/Area Regulations – The Code (§310-6.F.) requires “where more than one principal use occupies a lot, said lot shall be large enough to satisfy the minimum lot area or density requirements of each use.” The applicant’s site plan lists the bulk requirements for each use (retail and automobile repair) and proposed compliance with the same, separately. We have the following comments:

a. Coverage – The applicant’s bulk tables demonstrate the lot is noncomplying for allowable maximum coverage. The use as automobile repair permits 65% coverage, where the use as retail permits 75% coverage. Accordingly, the site is limited to 65% by Code. According to the applicant, the existing site is 84.9% impervious. The Building Inspector has opined this is a legally pre-existing nonconforming condition. This determination should be noted on the applicant’s plan.

b. Front Yard – The Code (§310-12) requires yards fronting on state highways be unoccupied and open to the sky not less than 50-ft in depth. The applicant describes a large, existing overhang that extends 1.7-ft within the 50-ft open to the sky requirement. According to the applicant the non-conformity exists due to a taking by the NYSDOT during recent improvements to Route 32. Counsel has confirmed this is a legally preexisting nonconforming condition. This should be noted on the plan.

c) Parking – The applicant’s plan and calculations for parking are revised. Forty-five (45) spaces are shown, fifteen (15) are designated to retail, and the remaining 30 (5-for customers on street side of fence) are designated to the autobody repair uses. Additionally, two parking stalls are provided for tow trucks. Further, the applicant has revised their plan to eliminate parking in the front yard and to show striping along the front of the building, prohibiting parking in this area. We recommend the applicant include a note on the plan indicating parking is not permitted in the front yard. **(Plan Revision Required)**

We understand based on prior discussions you will consider the parking restriction as part of your special permit such that if complaints are received or issue arises, the applicant will be required to reappear before the Planning Board. **(Recommended Condition)**

Finally, your Code (§310-23.H) section on Automobile Repair Garages states:

No more than five wrecked, partially dismantled or unlicensed vehicles shall be kept on the premises, and all such vehicles shall be kept within a building or concealed behind a board fence at least six feet high which shall be erected and maintained in a manner approved by the Code Enforcement Officer.

At your last meeting we discussed two issues related to this requirement of the Code, number of wrecked vehicles and requirement for board fence in lieu of chain-link. Your Building Inspector has opined that each autobody shop is permitted 5-wrecked vehicles, totaling 10-wrecked vehicles on site. You may wish to have the applicant include this restriction on the plan. **(Plan Revision)**

(Discussion) The applicant has altered the plan to indicate a board fence is required. We have the following comments:

1. We recommend the applicant confirm whether the rolling gate will also be of a board material.
2. You may wish to have the applicant provide a sample of the proposed fence, or at a minimum confirm the color.

d) Loading Berths – The applicant’s plan now shows a striped loading area conforming to the dimensional requirements of your Code (15’ x 45’). We have no further comments on this issue.

2. Site Plan – The applicant provided a site plan as required by your Code (§310-45.C.(1)(d)) and previously requested relief from requirements associated with new construction not applicable to this application. The Code (§310-45.E.(1)) allows you to authorize a waiver for certain requirements listed in §310-45.I, where the Planning Board finds that “due to special conditions peculiar to a site, certain information normally required as part of the site plan is inappropriate or unnecessary or that struct requirements may cause extraordinary and unnecessary hardships..”. Further, the Planning Board must find that the “waiver will not have detrimental effects on the public health, safety or general welfare of having the effect of nullifying the intent and purposes of this chapter...”. The following are excerpts from the Code where relief is requested:

[5] The locations of any existing sewage disposal systems and locations and sizes of wells, water mains, culverts and drains on and immediately adjacent to the site.

[11] Typical cross sections of the proposed grading, roadways, sidewalks and unusual topographic conditions. The location and access points to the site shall be shown, as well as the distances to the nearest intersecting street.

[12] The approximate boundaries of any area subject to flooding or stormwater overflows as shown on the Flood Hazard Boundary Maps for the Village of Woodbury or as determined by the project design engineer or the design surveyor or as documented by other studies performed by a qualified professional.

[15] Contour lines at intervals of two feet, based on United States Geological Survey data, of existing grades and of proposed finished grades. A larger contour interval will be permitted on approval of the Village Engineer.

[23] Any proposed grading, screening and other landscaping, including types and locations of proposed trees. Where the property is located adjacent to a limited access highway, a buffer zone shall be shown on the site plan, the depth of which buffer zone and any appropriate tree plantings shall be at the discretion and approval of the Planning Board. The Planning Board may require that landscaping plans shall be prepared by a qualified licensed professional.

[24] The source of water supply and the location of all proposed water lines, valves and hydrants and available fire protection.

[30] A suitable vicinity map, drawn to a scale of not over 400 feet to the inch, showing the relation of the proposed site to the adjacent properties and to the general surrounding area.

We recommend you consider whether the above information is pertinent for you to evaluate the proposal and grant relief as appropriate. **(Waiver Requested)**

a) Utilities –

a. Water/Sewer – No physical changes are proposed to the water and sewer connections. The applicant suggests the projected water and sewer demand is estimated 567.5 GPD.

A review of the floor plans indicates a modest portion of the building is being transferred from the car sales/millwork area to the autobody shop. This area will be designated as office space for the auto repair shop. Since the use as an auto repair shop is not changing, we believe you could consider any change in water and sewer demand specific to the portion of the building that is being converted to millwork showroom. Accordingly, we would anticipate the change in water use and sewer generation from car sales to millwork sales to be consistent or less.

The applicant's calculations indicate the projected water and sewer demand is less by 30 GPD, the difference is attributed to two less employees predicted for the site.

The applicant should provide your typical Projected Water and Sewer Demand form for review with the Water/Sewer Administrator. **Applicant to Provide.**

Finally, the applicant has suggested their application does not fall under the purview of moratorium. We defer to Counsel on this determination. **(Discussion)**

b. Stormwater Management – (Informational) The applicant advises no site disturbance is proposed and existing drainage conditions are to remain.

Engineer Barber said the demand for water and sewer would be the same as the previous Applicant. Since it was previously an auto body and auto repair Shop and auto retail, the difference would be converting the auto retail to millwork retail with two fewer employees. Although the Applicant's engineer prepared a report using typical hydraulic loading rates and she thinks their calculations are correct. She thinks it is up to the Board to speak with council on whether or not this application can be exempt from the moratorium. She then proceeded to speak on the following.

f) Signs – Previously, the applicant's renderings depicted a freestanding sign, illuminated wall sign and series of vinyl graphics. Additionally, the applicant has advised the freestanding sign will be in the same location as existing and use the existing poles.

a. *Freestanding Sign – HB Zone permits for multitenant directories (3 or more businesses) 10-SF is permitted for mall identification and 4-SF permitted per individual tenant. The applicant notes the main sign for Millwork Showroom will comply with the 10-SF requirement but does not provide dimensions of the proposed panel. They have not provided sizing for the other tenant panels, we believe this should be provided currently or, if not proposed, removed from the plan. **Applicant to confirm compliance.***

*Additionally, freestanding signs in the HB Zone may be no more than 12-ft tall and 10-ft wide. The bottom edge of a freestanding sign should be at least 7-ft above ground elevation and 12-ft from the edge of street pavement. **Applicant to confirm compliance.***

With respect to sign illumination your Code §310-30.D.(3)(d) requires signs be turned off before midnight, except that such signs as are maintained in connection with a business which normally opens past midnight could continue to be illuminated until closing time, provided that the lighting intensity is reduced to 50% after midnight and that the sign is extinguished at closing time. The applicant has added a note to the plan indicating the lighting for signs will be turned off at midnight. (Informational).

b. *Wall Signs – HB Zone permits 20-SF max. The applicant proposes a 19.07-SF sign that is complying. The applicant indicates this sign is to be illuminated and they have added a note to the plan indicating the lighting for signs will be turned off at midnight. (Informational)*

c. *Window Signs – In the HB Zone, properties are permitted window signs that are less than or equal to 20% of the window area. According to the applicant's plan, the window area is 1,364-SF, above the window there is a vinyl material that the applicant advises is not glass and not applicable to window area. Accordingly, per the applicant's plan, the total area of sticker is 185.6-SF and represents approximately 14% of the window area which is less than the maximum allowed by your Code and complying. (Informational)*

g) *Automobile Repair Garages – As discussed previously, the Code (§310-23) outlines certain requirements for these types of facilities. We have listed the relevant requirements below and provided comments where needed thereafter:*

A. *Strict compliance with state standards shall be required in the design and construction of devices for storing and handling gasoline and other products to keep the hazards of fire and explosion involving the same to a minimum.*

We recommend this be a condition of your action. (Recommended Condition)

B. *There shall be no other repair garage or service station property within 300 feet of any part of the lot lines of the property. Your Building Inspector has opined two garages are permitted on site. Applicant is complying.*

D. *Pumps and other devices, including all signs, shall be located at least 20 feet from any street line. It is not clear if the freestanding sign falls within this category or like other nonconforming conditions of the site could be considered existing, non-conforming.*

E. *No repair work shall be performed out of doors. We recommend this be a condition of your action. (Recommended Condition)*

F. *All automobile parts, dismantled vehicles and similar articles shall be stored within a building. We recommend this be a condition of your action. (Recommended Condition)*

H. *No more than five wrecked, partially dismantled or unlicensed vehicles shall be kept on the premises, and all such vehicles shall be kept within a building or concealed behind a board fence at least six feet high which shall be erected and maintained in a manner approved by the Code Enforcement Officer. Discussed above.*

I. *No dead storage or parking of vehicles shall be permitted, except vehicles awaiting immediate service or repair or those vehicles impounded at the direction of the police. We recommend this be a condition of your action. (Recommended Condition)*

K. *A minimum ten-foot landscaped buffer shall be provided on side and rear yards; where said buffer adjoins a residential district, the requirements of § 310-18 shall apply. Discussed above.*

Per the Chairman’s question on signage, Engineer Barber said it would be fine if the Applicant goes with a freestanding sign with a single panel and if they wish to add more panels, they are to amend their application and appear before the Board. She made it clear that the Board is not approving the sign as is until the Applicant complies. Chairman Gerver asked Designer Hartman if he knew what kind of fence they will be using for the southern side of the property since the Board hasn’t received a sample of the fence that will be used. Designer Hartman said the fence for the Southern side of the property will be the same as the rest, he hasn’t discussed color with the Applicant, but it would be vertical boards and it could be wood or Trex board. Engineer Barber suggests that the Applicant submit a revised ARB form listing the materials and colors along with a picture. Designer Hartman showed some pictures of what the fence would look like on screen. He also confirmed that the rolling gate will be the same material as the vertical fence. The Board discussed and suggested making a condition that any action of approval will have to comply with H2M’s current memo. E. Yan asked to confirm if the fence will extend to the west on the southern part of the site as was previously discussed. Designer Hartman said yes, even though the current plan doesn’t reflect that decision. The decision was made in the previous meeting.

Attorney Naughton agreed that there will be numerous conditions on the Resolution of Approval including the ones discussed in tonight’s meeting. She discussed the issue with the moratorium and the exemptions Designer Hartman mentioned. Reading Local Law 5 of 2022 section 3-12.

12) Applications for Planning Board and/or Architectural Review Board approval where the property had in place a municipal water connection (i.e., to the Villages of Harriman or Kiryas Joel) or a private well for use as potable water on July 30, 2021 (the date of enactment of the prior moratorium), where proof of such connection is provided to the Building Department, Water Department and Village Engineer, and no changes in use are proposed to the property that may increase the usage of water

She continued to say that if the Board believes that the Applicant has demonstrated that there’s no increase in the use of water the Board could authorize the drafting of the Resolution of Approval for their next meeting. R. Cataggio asked for clarification since the new site plan shows one Auto Shop for 3,000 sq. ft and another Auto Shop for 2,000 sq. ft. He thought it was to be an Auto Body Shop and an Auto Repair. Designer Hartman said there will be two Auto Body Shops. R. Cataggio also asked about the maintenance room. How do they make sure it doesn’t become the fourth business on the site? He asked if it was tied to the 3,000 sq. ft. Auto Shop. Designer Hartman said there won’t be a fourth business and it won’t be owned by the Auto Shop it will be for the millwork. The maintenance room’s intended use is for storage. The Board and counsel decided to then have an additional condition since there may be a special permit so that it can be evaluated yearly.

Chairman Gerver and Engineer Barber concluded by listing items that must be submitted prior to signing off any documents. A copy of the draft resolution of approval will be forwarded to the Applicant for review. M. Pastel spoke of the no-parking zone in the front. Attorney Naughton reminded the Board that she has it noted as a condition of the special permit. Designer Hartman about the no parking zone in the front Chairman Gerver noted that the Applicant must make one more appearance.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, for counsel to draft the Resolution of Approval for Spitzer/Millwork Showroom based on the Board’s discussion in the previous meetings as in tonight’s meet with the suggested conditions by the Board’s counsel and engineer. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

- G. **Hartman/ ARB Brown 5 First Ave** – Review and discuss documents submitted on the ARB and Ridge Preservation application for expansion of building footprint and proposed addition of a story to an existing dwelling. Said property is located at 5 First Avenue and is known on the Village of Woodbury Tax Maps as Section 214 block 7 lot 3.

Present Designer Larry Hartman from Hartman Designs

Designer Hartman noted this application similarity to the Hartman/ARB 2 First application. He referred to the renderings and site plans he provided to the Building Department on screen. He noted that in the site plan, they are incorporating two decks

and the shed as part of one big house. The existing floor plan showed it's a duplex, and they are proposing to add a story above it and a basement underneath. Designer Hartman proceeded to say this property is not visible from the view corridor.

Engineer Barber noted as well, that this application has the same issues as the previous application. Indicating the use of variance would be required from the ZBA, and just as in the previous application, she refrained from going over the ARB and the Ridge Preservation. Chairman Gerver asked if this is a single-family being converted to a duplex home, and Designer Hartman said no, it's a duplex showing the existing floor plans. Chairman Gerver asked if it's an existing duplex, would it become a pre-existing non-conforming, or is it just illegal? Attorney Naughton was confused with this application since this duplex is where only single-family homes are permitted. She said this is something that will need to be checked with the Building Department. Adding that it may be used as a two-family but not be a legally pre-existing two-family and if that's the case then the Applicant will have to apply for a variance or change it to a single-family. If it's a legally pre-existing use they want to expand then there's a special permit the ZBA can grant, but only up to 10% of the area. This application needs more research.

A motion was offered by Chairman Gerver, seconded by E. Yan, to type 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 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

A motion was offered by Chairman Gerver, seconded by E. Yan, to authorize Engineer Natalie Barber to refer the application over to the Zoning Board of Appeals. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

M. Pastel asked that the Applicant provide more information on the basement for their next submittal.

- H. **15 Dartmouth/ ARB Joel** – Review and discuss documents submitted on the ARB and Ridge Preservation application for the proposed addition to an existing dwelling. Said property is located at 15 Dartmouth and is known on the Village of Woodbury Tax Maps as Section 245 block 1 lot 108.

Present Yoel Ekstein

Chairman Gerver announced that his brother-in-law lives directly across from the Applicant but feels he can be fair and impartial in rendering any decisions upon this application.

Mr. Ekstein began by saying they had submitted the necessary forms for the ARB. The plan is to have an addition to the kitchen on the first floor becoming a dinette area. The living room area will be in the back of the dining room. There's a deck that will be over the basement. The basement will be an unfinished space for lawn equipment as well as storage.

Engineer Barber said since their last appearance before the Planning Board, the Applicant has submitted new materials based on comments that were given in May 2022. She proceeded to go over comments from the H2M memo.

H2M Memo dated July 29, 2022:

1. Zoning –

a) Use – Single-family homes are permitted in the R-2A zone.

b) Bulk – The applicant provided a bulk table for you to consider compliance with zoning for the R-2A zone. We have the following comments:

i. *Lot Width* – The lot is 125-ft where 175-ft is required. Applicant notes this is an existing condition. We recommend you confirm this is a legally pre-existing nonconformity requiring no further review.

ii. *Front Yard* – The applicant’s plan should be revised to show the front yard setback to the front porch. The dimension should be confirmed in the bulk table provided.

iii. *Rear Yard* – The applicants plan should be revised to show the rear yard setback to the proposed addition, dimension should be confirmed in the bulk table provided.

iv. *Coverage* – The applicant should provide a basis for the coverage calculations and demonstrate all impervious surfaces are accounted for as part of this proposal. We note, pools are considered impervious areas (per definition in the General Permit) and should be accounted for.

v. *Height* – The applicants plan indicates the building is 19.4-ft tall. This dimension should be confirmed. For reference, the Code (§310-2) defines building height as:

The height, in feet, of a building shall be determined from a datum established by the average elevation of paved open spaces which are suitable for the approach of fire department equipment and curb levels, where established, both of which are within 50 feet of the exterior walls of the building. Such height shall be measured from such datum to the highest level of a flat or mansard roof or to the average height of a pitched, gabled, hip or gambrel roof, excluding bulkheads and other roof construction.

2. *ARB* – In your role as ARB, the Code (§8-4) specifies your review and consideration of structures or alterations to structures and the following:

A. *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.*

We have the following comments on ARB:

a) *The applicant provided the floor areas of proposed additions. The applicant should list the area of the unfinished basement on the plan.*

b) *Based on the first-floor plan the general building footprint is approximately 1,870-SF. You may wish to request the applicant provide a comparison of building footprints (in addition to gross floor area, which was already provided) to neighboring homes for you to consider similarity and dissimilarity.*

c) *The second-floor plan shows a “Baby Room”, this appears to be an additional bedroom. Applicant to confirm.*

d) *The applicant provided an analysis of the gross floor area of surrounding homes to the proposed home for you to consider whether the proposal is similar/dissimilar to others. Based on the applicant’s floor plans, we believe the total living space for 15 Dartmouth is proposed 3,534-SF. Similarly, it would appear the total unfinished and finished space would be 3,534-SF plus the basement area which is not listed on the floor plans. Applicant to confirm and update the plans.*

e) *The applicant has confirmed their intent to match the colors of the existing siding on the existing home. You previously discussed EPDM roofing for the addition and took no exception.*

f) *A revised ARB form should be submitted noting the materials and colors for the deck.*

3. *Ridge Preservation* – This property ranges greater than 800-ft above mean sea level (AMSL) triggering your review under the Code (§310-13) requirements for Ridge Preservation (threshold 600-ft AMSL). The

nearest view corridor is County Route 105. Based on feedback from the last meeting and revised materials, we have no further comments on Ridge Preservation. The following is informational pertaining to the application:

a) (Informational) You previously confirmed the home is not visible from the view corridor. Accordingly, per your Code (§310-13.B(7)) you may waive or adjust the requirements of all of part of the Ridge Preservation criteria per your Code.

b) (Informational) The applicant proposes natural clay colored siding that appears to meet the requirements of your Code (§310-13.B.2).

c) (Informational) The roof material is listed as EPDM, where shingles, wood, clay or slate shingles and tiles are typically permitted. You previously opined this is acceptable.

d) (Informational) The applicant confirmed their intent to use non-reflective windows on their plan.

4. Public Hearing – At your discretion a public hearing remains to be scheduled or waived as permitted by your Code ARB (§314-8.A.) “upon determination that there is no apparent significant impact to the surrounding neighbors or neighborhood, given the mass and/or architectural features of the proposed project and that a public hearing is not necessary in the public interest.”

5. SEQRA – We defer to Counsel’s direction on SEQRA.

Chairman Gerver confirmed all the additions would be in the rear of the house. Mr. Ekstein confirmed the front of the house would not be touched. Mr. Ekstein asked about a comment in H2M’s memo regarding the unfinished basement. Engineer Barber clarified her comment saying it’s meant to ask for the area of the existing unfinished basement. Mr. Ekstein understood that what he provided was the area of just the addition, he understands that it’s the total floor.

R. Cataggio said he lives on the same block as the Applicant, and he too said he can be impartial in reviewing the application and making a determination. He said there was a pre-existing garage and he thought it was converted to a living space. He asked Mr. Ekstein if he can clarify, and Mr. Ekstein said the garage doors were taken away, and installed a regular walkthrough door. R. Cataggio asked that on the final submission add that information on the site plan.

A motion was offered by M. Pastel, seconded by T. DeLuca, to waive the public hearing for 15 Dartmouth/ ARB Joel. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

Attorney Naughton made it known that this application is not exempt from the moratorium due to the additional bedroom. Mr. Ekstein disputed that there’s no renovation, it’s what exists. Attorney Naughton said the home is listed as a 4-bedroom home and the baby room makes it a 5-bedroom. Mr. Ekstein said before moving into the home they obtained a permit and were then able to renovate. Chairman Gerver explained the county has the property listed as a 4-bedroom and if it can be demonstrated that the permit was issued for the additional bedroom before the moratorium went into effect, then it can be exempt. Attorney Naughton advised providing the necessary paperwork that the Board and Consultant don’t have can help clarify things.

A motion was offered by Chairman Gerver, seconded by M. Pastel, for counsel to draft the Resolution of Approval for 15 Dartmouth/ ARB Joel with the conditions that the Applicant be able to provide proof of the legality of the fifth bedroom. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

It was explained that the Applicant will be placed on the agenda when the Applicant submits revised materials along with the permit.

- I. **Shlomo/ 50 Smith Clove Rd** – Review and discuss documents submitted for proposed site plan, special permit, ARB, and Water Quality Protection Overlay for change of use from a Laundromat to Apartments. Said property is located at 50 Smith Clove Rd. in Central Valley and is known on the Village of Woodbury Tax Maps as Section 231 block 3 Lot 3.

Present Engineer David Niemotko

Engineer Niemotko said an application was submitted in response to a Building Department letter that showed the Applicant in violation of the zoning code. The Applicant would like to convert the first floor from an existing laundromat to a residential apartment. He continued to say the apartment is approximately 1,100 sq. ft., and Engineer Niemotko believes the zoning code will allow 2 apartments. Engineer Niemotko acknowledges receiving the H2M memo and agrees with a few of the comments. He said there were other requests made due to the existing wetlands, and when it gets to that point, the Applicant will ask the Board for relief from documenting or delineating any wetlands or FEMA applications since the building exists. Engineer Niemotko said they are not proposing any changes in footprint or an increase in the existing area. The Applicant is also hoping that the Board will not refer this application to the ZBA.

Chairman Gerver noted that the Building Inspector inspected the premises, including the basement, and there is no way the basement can become an apartment. He said the basement does not meet the required height for a ceiling.

Engineer Barber said there are a lot of questions due to the limited information that was submitted. She began with the one-floor plan that did not show all of the uses for the site and for what the other building was being used. Engineer Barber referred to the H2M memo.

H2M Memo dated July 29, 2022:

1. Zoning – The Applicant proposes to remove all existing commercial uses on the property and develop residential apartments.

a. Use – In the HB Zone, dwelling units are permitted special permit uses with site plan approval (SP Use #15). The Code (HB Zone Table) requires dwelling units contain no more than 2 bedrooms each. The applicant should provide floor plans (for all levels of the building) demonstrating compliance with this requirement. The applicant should discuss the second building on the lot, its use and whether any changes are proposed.

b. Bulk –

i. Lot Area – Zoning requires 6,000-SF of lot area for each unit. The applicant should confirm the number of units proposed. In 2020, the Village Board of Trustees adopted changes to the definition of “lot area” in the Code (§310-2). The applicant should calculate the appropriate deductions (wetlands, areas of flooding, steep slopes, as well as “lands otherwise unsuitable for development as determined by the Planning Board”) and confirm the net lot area of the property. With respect to “unsuitable” land for development, the Planning Board should consider whether this includes the required undisturbed riparian area defined in the WQPO (§310-31.4.F.). Once the applicant provides details on the proposal and calculations for lot area, you should consider whether any relief is required as part of this proposal.

ii. Other – The setback, coverage, and lot width criteria for this Special Permit Use are undefined in the Code (§310-7 (HB)). For a similar application, you received an interpretation from your Building Inspector (2017 – Falkirk Townhouses) indicating the requirements of the R-0.25A were applicable. We will review this interpretation with Counsel to determine if a new opinion specific to this application is required. We will try to resolve this prior to your meeting so the applicant may update their plan as needed.

c. Parking – The Code (§310-40.A.) requirements for parking for residential units are two spaces per unit. The applicant should provide the number of units proposed and demonstrate adequate parking on the plan for both buildings. Once a survey is provided, we will review if any other portions of your Code apply to this application and parking.

d. HB Zone – Although it would appear a proposed residential use would be complying, at the appropriate time, the applicant should certify compliance with the Code (§310-22) requirements for performance standards in the HB Zone.

2. *Site Plan* – The Planning Board is authorized under §310-45; Article VIII of the Village Zoning Code to review and act on site plans and special permits. The Code requires [§310-45.C.(1)(d)] a site plan be submitted for any application for a special permit. The Code further defines the objectives and design requirements of a site plan with specific site plan requirements under §310-45.I. The applicant has submitted a conceptual plan for you to consider their proposal, additional details shall be provided as the plan progresses. At the appropriate time, the applicant should review the requirements of the Code and identify those areas where they are requesting relief. If no relief is requested, the site plan is expected to comply with the requirements of the Code.

a. *Utilities* –

i. *Water/Sewer* – The applicant should discuss whether any changes to the existing services are proposed. The Projected Water and Sewer Demand form was completed indicating only two-bedrooms are proposed. Once the number of units and uses on the site are confirmed this may need to be updated. Additional information is required for us to properly opine on this issue. Nonetheless, we note the existing lot is within the boundary of the Consolidated Sewer and Water Areas and based on the applicant's EAF appears to be served by municipal connections.

ii. *Stormwater* – The applicant's EAF indicates no disturbance is proposed. This remains to be confirmed once survey and details on the plan are submitted.

b. *Lighting* – Applicant to confirm if any changes to lighting are proposed.

c. *Landscaping* – At the appropriate time you should discuss landscaping.

d. *Traffic/Access* – We defer to your traffic consultant for comments on the same. Nonetheless, detailed plans need to be submitted for adequate review of these issues.

e. *Refuse* – The applicant should discuss existing refuse disposal and if it is adequate for the site and change in use.

3. *Water Quality Protection Overlay (WQPO)* – The Code (§310-31.4) standards for the WQPO are appended for ready reference. As shown in the WQPO map, the applicants property appears to be almost entirely encumbered by the regulated areas of the district. The following should be considered with input from the applicant and advice from Counsel.

a. *Mapping* – A survey of the property should show the regulated waterbodies, riparian zone, and buffer area of the district.

b. *Prohibited Activities Throughout the Overlay District* – There are a number of prohibited activities in the district listed in the Code (§310-31.4.E.(1)). At the appropriate time, the applicant should confirm compliance with each.

c. *Riparian / Buffer Area Implications* – Additional information on disturbance and proposed action is required to determine applicability under these sections of the Code (§310-31.4.F. & G.).

d. *Existing Nonconforming Uses* – The Code (§310-31.4.I.) indicates “Where nonconforming uses exist within the Overlay District, and except where a water pollution control plan is required to be filed as identified above, these uses may remain. If maintenance, repairs, or procedures required for compliance with federal and state regulations are necessary they shall be permitted. Under no circumstances shall the nonconforming use be authorized to expand their facilities, impervious area, or capacity without receiving all required approvals including those from the Building Department and/or Planning Board.”. This application may fall within this exemption, but additional information is needed to make that determination.

4. *Wetlands* – According to the applicant's EAF, wetlands exist on or adjacent to the site. These should be shown on the applicant's survey and the limits of the same certified correct by the professional preparing the plan. If the wetlands are located adjacent to the site, buffer areas defined by jurisdictional agencies and your Code Ch. 165, should be shown on the site. If necessary, based on proposed disturbance (if any), the applicant should confirm any other jurisdictional agency that has authority over the proposed action.

5. *Floodplains* – FEMA mapping indicates the site is located almost entirely within the Special Flood Hazard Area and portions may be within the floodway. The applicant should confirm and, if possible, show the limits on the survey or, if not appropriate, they should include notes describing the occurrence of floodplain/floodway

on the plan. Once the action is confirmed, we will confirm the requirements of your Code (§159) pertaining to this development.

6. ARB – It is not clear at this time if any architectural improvements are proposed. Additional information is required.

7. SEQRA – We defer to Counsel on typing the action and procedural next steps. A short form EAF was submitted by the applicant, we have the following comments:

a. Description of Action – Additional information on number of units and existing uses on the site should be provided.

b. Name of Applicant – The EAF indicates the applicant is David Niemotko, the application lists Shlomo Stern, this should be revised for consistency.

c. Question 2. – Approvals from other agencies remains to be confirmed.

d. Question 12.b. – The site is flagged for archaeological sensitivity. Additional detail is required for you to determine whether a referral to SHPO is required.

e. Question 13 – Wetlands discussed above.

f. Question 14 – Response Required.

g. Question 15 – Site is sensitive for Northern Long Eared Bat. Additional detail is required for you to determine whether a referral to DEC is required.

h. Question 16 – Site contains the 100-year flood plain, discussed above.

After much discussion on the location, the next-door building, water, and parking, amongst other things, the Board and the consultants concluded that there was insufficient information regarding this application. Engineer Niemotko acknowledges that the Applicants are new homeowners. Attorney Naughton asked that in the next submission, Engineer Niemotko provide a copy of the deed and the entity disclosure as well as information on the adjacent building.

Chairman Gerver said it's known this application is on municipal water, and it used to be a laundromat. He asked if there are any requirements that they have to prove that the site isn't contaminated with all those perchlorides that were used to clean clothes in the past. Engineer Barber said she would look into it. Attorney Naughton said she and Engineer Barber would look to see if there were spills that may have been recorded, for instance, with the DEC.

4. Board Member/Consultant Comment(s):

Engineer Barber sought out a decision from the Board regarding the Gluck application.

The Planning Board approved an ARB application for five homes on five lots as part of a subdivision in 2008. It is a nine-lot subdivision, and five of the lots were undeveloped. It was discovered that the prior developer of the subdivision never received that coverage, so they had to apply for coverage with the DEC and, in doing so, had to update their plans to comply with regulations. Each lot had to update its plans. Engineer Barber placed the plans on screen for the Board's review. She said each lot was equipped with a water quality control device. Infiltration testing was performed on each lot and failed, so a similar type of system, except it's a pipe storage system adding rain gardens to each site. Also, each lot had a trench drain to collect stormwater from the driveways, for it to be discharged to an underground detention system. Engineer Barber was just presenting the changes to comply with the resolution and requirements of current regulations.

She continues to say that the size and the footprint of those systems have changed. The limits of disturbance have been expanded to accommodate those systems. The Applicant will be revising the plan to comply with what was approved in 2021 regarding the trees. Last, there was an additional erosion and sediment control practice that was added to the plans, and that's a concrete washout.

Chairman Gerver asked if there should be any additional language or does the Board have to enter into a developer's

agreement to make sure these pipes are properly maintained since they require maintenance. Attorney Naughton confirmed that it's the homeowners' responsibility for the maintenance. Engineer Barber said deed restrictions are existing for each of the properties that require the individual homeowners to maintain the stormwater system. Attorney Naughton looked over the deed restriction language and thinks it isn't sufficient or makes it easy for the Village. A language that gives the right but not the obligation to go in to fix and charge it back to the homeowner. She will collaborate with the Applicant and Engineer Barber to have that language in place.

The Board's in agreement as long as the council okay with the language and the easements.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to accept the field change with the conditions they spoke of this evening. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES 0

Adjournment:

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by R. Cataggio, to adjourn the meeting at 9:34 PM.

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel, E. Yan
NOES 0

Claudia Valoy-Romanisin, Planning Board Secretary