

**Village of Woodbury
Planning Board Meeting
August 17, 2022**

Minutes of the Planning Board Meeting held on August 17, 2022, at 7:30 PM.
(Meeting held via Zoom)

Board Members Present: Christopher Gerver, Chairman
Thomas DeLuca
Michael Pastel

Representing for the Village of Woodbury Planning Board:

Kelly Naughton, Attorney
Natalie D. Barber, Engineer

Board Member(s) Absent: Richard Cataggio and Evan Yan

Also Present: Andrew Giacomazza, Mayor

Chairman Gerver opened the meeting with the 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:**

A motion was offered by M. Pastel, seconded by T. DeLuca, to approve and accept as amended the minutes of the meeting held on July 20, 2022. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

4. **Regular Agenda:**

- A. **Spitzer/Millwork Showroom** – Review draft decision 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 Shloimy Gelb, representative of Hartman Designs.

Chairman Gerver recalled outstanding item(s) from the Applicant. Mr. Gelb said pictures of the fence were sent as part of the ARB form. He continued to say that a few items were not updated, for instance, notes and details on the dimensions in signage. These details were submitted to their engineer to update the site plans, but they have yet to receive the revised plans for submission. Mr. Gelb said they hope to have the updated plans by next week. Noting that this application has been before the Board since March, he asked if the Board could vote tonight. Chairman Gerver replied by saying the Board can vote on the application tonight. Still, he won't be able to sign the Resolution of Approval until he receives a letter from Attorney Kelly Naughton and Engineer Natalie Barber stating that the Applicant has met the conditions. Until then, he will sign the document.

Chairman Gerver asked the Board members if there were any questions with the ARB submittal, and M. Pastel noted that when the fence is close to the road, there's a limit on how high and how opaque it can be; also, it's supposed to be 50% open. As per the submitted pictures that is not the case. The Chairman said the Applicant would need to comply with 4 feet in front of the yard and with the 50% opacity. The section M. Pastel referred to was pointed out in the plan for Mr. Gelb. Chairman Gerver added that the Building Inspector would make sure when he issues the permit that the fence is complying. However, the Board does not have the authority to give any waiver outside the fence requirements.

Confirming the review of several pages of facts and findings, Chairman Gerver began to read the Specific Conditions of the draft Resolution of Approval ARB for the Spitzer/Millwork Showroom application.

SPECIFIC CONDITIONS

- 1) *conditions of prior approvals in connection with this property shall continue to be in full force and effect, and this Resolution does not supersede or otherwise modify such prior approvals and conditions except as specifically set forth in this Resolution.*
- 2) *No building permit shall be issued authorizing the construction or renovation of structures inconsistent with the architectural renderings submitted to, and approved by, the Architectural Review Board as part of this approval, nor shall any Certificate of Occupancy be issued for any structures constructed except in conformance with such renderings. Any deviation from such renderings will require further Planning Board review.*
- 3) *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. All signs and general lighting shall only be illuminated during operating hours. General lighting shall be extinguished by midnight each night.*
- 4) *Production and manufacturing of millwork will not occur at this facility, and there shall be no storage of materials on site. This shall be a showroom only.*
- 5) *The fence shall be maintained in good condition. The rolling gate shall be constructed out of the same material as the fence.*
- 6) *Prior to the signing of the plans by the Chairman, the Applicant shall:*
 - a) *Revise the plans to depict a board fence, instead of a chain link fence.*
 - b) *Comply with the memorandum of the Village Engineer dated July 29, 2022, to the satisfaction of the Village Engineer.*
 - c) *Revise the plan to include a note stating that parking is not permitted in the front yard.*
- 7) *Prior to the issuance of a Building Permit, the Applicant shall provide confirmation of compliance with Village Code requirements for freestanding signs in the HB Zone to the satisfaction of the Building Inspector.*
- 8) *Prior to the issuance of a Certificate of Occupancy, the Applicant shall:*
 - a) *Provide proof to the Building Department of compliance with all New York State Department of Environmental Conservation requirements for auto body shop (i.e., receipt of permit or registration for each shop) or proof that none is required.*
 - b) *Provide certification by a New York State licensed engineer or architect that the accessible parking spaces and accessible path to the showroom meet all applicable local and State accessibility codes.*
 - c) *Submit a "water pollution control plan" to the satisfaction of the Building Inspector and file it with the Building Department in accordance with Village Code § 310-31.4(E)(6)(b)[2].*
- 9) *The Applicant shall be required to comply with Village Code § 310-23 at all times, including but not limited to:*
 - 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.*
 - b) *No repair work shall be performed out of doors.*
 - c) *All automobile parts, dismantled vehicles and similar articles shall be stored within a building.*
 - d) *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.

- 10) *The Applicant shall keep and maintain all areas surrounding the dumpsters/refuse collection facilities in neat and orderly condition.*
- 11) *This Special Permit shall be subject to annual renewal by the Planning Board, beginning one year from the issuance of the initial Certificate of Occupancy issued in connection with this Special Permit. The Village of Woodbury Building Department shall inspect the premises on an annual basis prior to expiration of each renewed term of this Special Permit.*
 - a) *Should the Village of Woodbury Building Inspector find the applicant in material compliance with the provisions of this Special Permit, then (provided that no other significant complaint or irregularity has come to the attention of the Planning Board), renewal of this Special Permit by the Planning Board shall, in each such subsequent year, be automatic and shall be accomplished without the need for a public hearing or appearance before the Planning Board.*
 - b) *If any material and continuing non-compliance be found by the Village of Woodbury Building Inspector, or should any significant complaint or irregularity come to the attention of the Planning Board which has not been remedied to the reasonable satisfaction of the Village of Woodbury Building Inspector or Planning Board, as the case may be, within a reasonable period of time after the non-compliance or complaint is brought to the attention of the Applicant, then the matter shall be brought on for public hearing before the Planning Board. Upon the closing of the public hearing the Board shall rule upon the revocation or application for renewal of the Special Permit.*
 - c) *There will be no fourth use permitted on the property or within the maintenance room. If this situation changes so that, in the opinion of the Building Inspector, a fourth or additional use occurs, the Applicant shall return to the Planning Board for further review and approval.*
 - d) *Expansion of routine activities or any activities that would result in additional use requires the Applicant to return to the Planning Board for further review.*
 - e) *There shall be no parking in the front yard.*
 - f) *Should the Village of Woodbury Building Inspector find that any of these conditions are not being complied with, the Village of Woodbury Building Inspector shall attempt to resolve the issue with the Applicant. If the Building Inspector and the Applicant are unable to agree upon an appropriate solution to be implemented, or if no resolution can be found, the Applicant shall return to the Planning Board for a Second Amended Site Plan and/or Special Permit to address these issues when and as directed to do so by the Village Building Inspector.*

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to accept the counsel's draft Resolution of Approval with the modifications noted in tonight's meeting. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 3 Chairman Gerver, T. DeLuca, M. Pastel

NOES 0

- B. Hartman/Holtzman 44 Catskill** - Review draft decision for ARB and Ridge Preservation of the proposed renovation of existing Single-family dwelling. Said property is located at 44 Catskill High Rail in Central Valley and is known on the Village of Woodbury Tax Maps as Section 254 block 2 Lot 62.

Attorney Naughton pointed out an added section in "Finding" on page 3 of the draft Resolution of Approval to consider regarding Ridge Preservation.

Findings

*The Planning Board has determined that approval of this Application will substantially serve the purpose and policy of the Ridge Preservation provisions of the Village of Woodbury Code § 310-13, and, subject to compliance in full with the conditions hereinafter imposed, the residence shall not be visible from any designated ridge preservation view corridor or will blend into the hillside. The Planning Board hereby approves the above noted plans, illustrations and materials submitted by the Applicant. **In connection with this Finding, the Planning Board has determined, in accordance with Village Code § 310-13(B)(7)(b), that the requirement of Village Code § 310-13 (Ridge Preservation) for the applicant to submit a photo-simulation is hereby waived, as the structure affected will not be visible from a designated view corridor.***

Confirming the review of several pages of facts and findings, Chairman Gerver began to read the Specific Conditions of the draft Resolution of Approval for Hartman/Holtzman 44 Catskill application.

SPECIFIC CONDITIONS

1. *No building permit shall be issued authorizing construction of structures inconsistent with the architectural renderings submitted to, and approved by, the Architectural Review Board as part of this approval, nor shall any Certificate of Occupancy issue for any structures constructed except in conformance with such renderings. Any deviation from such renderings will require further Planning Board review.*
2. *All new windows shall be constructed of or coated with non-reflective material or anti-reflection window film will be applied to any new low-e windows installed.*
3. *Prior to the signing of the renderings, the Applicant shall comply with the memorandum of the Village Engineer dated July 8, 2022, to the satisfaction of the Village Engineer.*

A motion was offered by Chairman Gerver, seconded by M. Pastel, to accept the counsel's draft Resolution of Approval with the additional finding of outright preservation noted in tonight's meeting. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	3	Chairman Gerver, T. DeLuca, M. Pastel
NOES	0	

- C. God's Grace Ministry** – Continuation of 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.

Present Applicant, Elijah Ogunyemi

Engineer Barber mentioned that SEQRA was concluded, and the Water and Sewer demand form was executed and distributed. The issue was the submission of a photo with the dimension of the sign, and too many fonts and colors, but the Board waived the number of colors that can be used per code. Another issue was whether the sign was similar or compatible with the other uses or architectural character of the building in the shopping center.

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

There were no comments from the public.

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

ADOPTED

AYES 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

Chairman Gerver began to discuss the architectural layout of the sign and said that based on the design, he doesn't feel the sign fits the character of the shopping center. T. DeLuca said that besides the Facebook address and fine print, he is ok with the colors. M. Pastel agreed. He said it's a little too complicated and fussy and suggested simplifying it. Mr. Ogunyemi said it was designed in case of an inopportune shutdown, and people would have a way to locate them online through social media where services were streamed online. He continued to say he would work on simplifying. M. Pastel suggested putting a small sign in the window as long as it doesn't take up too much space. T. DeLuca indicated what should be removed from the banner, and the Board agreed. Mr. Ogunyemi said he would work on it as suggested. Attorney Naughton advised that the window sign cannot be a neon light sign. Engineer Barber announced that only two fonts are allowed under code, though if the Applicant wishes to add more fonts, they are to then apply for a variance with the Zoning Board of Appeals (ZBA). With the signage the only thing outstanding, the Board okayed for Attorney Naughton to prepare a draft Resolution of Approval.

A motion was offered by Chairman Gerver, seconded by M. Pastel, for counsel to draft the Resolution of Approval for God's Grace Ministry per the Board's discussion contingent on the second sign application. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

- D. KJ Water Treatment Facility** – Continuation of Public Hearing for Site Plan approval of a proposed Water Treatment Facility located at 147 Seven Springs Rd. in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 213 Block 1 Lot 49.

Their council requested a continuance via email. They are waiting for feedback from the Department of Health on some outstanding issues.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to schedule a public hearing on September 21, 2022, for KJ Water Treatment Facility. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

- E. Hartman/Lebowitz 39 Catskill High Rail** - Review and discuss documents submitted for ARB and Ridge Preservation of proposed Single-family dwelling located on Lot # 19 within the Woodbury Villas. Said property is located at 39 Catskill High Rail in Central Valley and is known on the Village of Woodbury Tax Maps as Section 254 block 1 Lot 19.

Present Shloimy Gelb, representative of Hartman Designs.

Mr. Gelb began by listing issues discussed in a previous meeting that is now taken care of. He said a survey was taken on the original subdivision plan, and the outcome was that they don't need a retaining wall, dimensions on the floor plan were given, and a bedroom was clarified. He continued saying H2M's memo noted a discrepancy in the number of bedrooms. The Water and Sewer form the Applicant provided states five bedrooms, while it should have four. They have also submitted photos from the view corridor along with the similarity and dissimilarities of the units nearby. Mr. Gelb proceeded to speak about the differences in the design of the homes as well as the square footage. He explained the reason for digging down, the exposed windows in the rear, and the garage. He spoke about landscaping, saying the developers were the ones who cleared the lot, and the Applicant is asking what they should do.

Engineer Barber briefly went through some of the discussions Mr. Gelb described. She rectified that the grading has been removed though she asked for confirmation that the grading is suitable for mobile conditions due to a safety requirement. As per landscaping, she said there was a clearing limit as part of the original subdivision approval, but the clearing went beyond that limit. As part of Ridge Preservation requirements, the Board has the opportunity to consider adding vegetation if it feels it may impact the home's visibility. She continued by saying the Applicant has provided a comparison table of the nearby houses, square footage, the unfinished basement was discussed before, and it was confirmed that it would remain unfinished except for potentially making it a playroom. The Applicant provided pictures of the compatible homes and those taken at the view corridors showing that the house is not visible. The plan also noted the use of non-reflective windows, which she advised to include as a condition. Engineer Barber concluded that a public hearing is unnecessary for the public interest. Attorney Naughton added that this Application is a Type II Action under SEQRA.

Mr. Gelb confirmed there would be lawn/foundation plantings per the Chairman's questions. Engineer Barber said that the developer is required to put shade trees at the closeout phase. It was then discussed the responsible party who over-cleared the lot and whom the responsibility for the upkeep would lie. As approved, Attorney Naughton confirmed that it would be the homeowner's responsibility for the maintenance. The Board agreed that the homeowner pays for the developer's mistakes but insisted that a few trees be planted.

As per the suggestion of turning the unfinished basement into a playroom area, M. Pastel asked if there was a way to keep the basement as a playroom area and not have it become a living space. Attorney Naughton noted that building code requirements can specify what rooms can be used as bedrooms. Although it may be difficult, these restrictions can be communicated to subsequent owners by making these notes in the final plans and the Resolution of Approval. Mr. Gelb wanted to be known that the Applicant bought the property after the developer made the clearing but understood that the Board just wanted some plantings back to make it look less bare.

M. Pastel asked if there were ways to ensure that the unfinished basement doesn't turn into a living space in the future, and if the property is sold, the new owner is made aware of the conditions set by the Board. Attorney Naughton suggested having it noted and signed on the following items: the final signed plans, ARB applications, or renderings. She said it should be in the chain of titles. Mr. Gelb wanted to clarify where these trees should be planted, and the Board agreed that they should be placed in the back and foundation plantings by the owner. It was explained that the submission should be plantings on the plans, not just landscaping renderings. Mr. Gelb obliged and said they would provide the Board with a landscape plan plus renderings.

A motion was offered by Chairman Gerver, seconded by M. Pastel, to waive the public hearing. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED
AYES 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to exempt Hartman/Lebowitz 39 Catskill High Rail from the Ridge Preservation requirements. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED
AYES 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

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 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

- F. **Klein/ARB** - Review and discuss documents submitted for ARB and Ridge Preservation of the proposed 1,352 sq. ft. addition to an existing single-family dwelling. Said property is located at 16 Country Hollow in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 247 Block 5 lot 8.

Present Engineer Yoel Estein

Mr. Estein began by saying they will have some demolition and will be rearranging the house's layout by adding two additions to the home. The main one is towards the rear, measuring about 1,300 sq. ft, and they are also enclosing part of the front entry. He concluded by saying there will be a total of 2 fill-ins and two additions, built on a foundation and an unfinished basement.

Engineer Barber began by referring to comments in her H2M memo.

H2M Memo dated August 12, 2022:

1. Zoning –

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

b) Bulk – The applicant submitted a survey prepared in January 2000, with written mark-ups of the proposed additions and setbacks. In our opinion, this plan requires clarification as follows:

i. Based on the applicants plans, it appears a complete interior renovation, with new additions and exterior modifications are proposed. The applicant should confirm if it is their intent for complete demolition with rebuild or proposed additions as described in the application.

ii. Setbacks – The accuracy of the information as drawn in on the plan is questionable. Nonetheless, if the existing footprint is to remain, the Code does not prohibit unroofed decks and porches in any yard. Except for the extension in the rear yard, the proposed additions appear to align with the existing limits of the home. The extension into the rear yard does not encroach on the 50-ft required setback. Accordingly, we believe the proposal complies with setback requirements.

iii. Coverage – As noted above, based on the information submitted we are unable to verify whether the proposed coverage complies with the R-2A zone. All impervious surfaces (existing and proposed), including driveway, sidewalks, decks, and the home need to be accounted for to determine proposed coverage. Applicant should provide a scaled plan showing proposed impervious surfaces to confirm.

iv. Lot Width – The applicant notes the lot width is a pre-existing non-conforming condition. We recommend you review this with Counsel to confirm this is a legally pre-existing nonconformity.

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 floor plans (existing and proposed) for you to consider the proposed use of the space and overall areas of the home in comparison to others they provided for reference. We have the following items requiring clarification:*

i. A comparison of the existing and proposed floor plans indicates additions are proposed to the rear, front and right side of the home. We recommend the applicant delineate all the proposed addition areas on the floor plan. Additionally, the applicant should confirm the areas listed include all the proposed additions.

ii. The floor plan should include labels for all rooms in the home.

iii. We note four-bedrooms are proposed in lieu of the existing three-bedroom home. The Projected Water and Sewer Demand should be revised to indicate one-new bedroom is proposed and account for the additional demand using State standards.

iv. The proposed floor plan shows stairs. The applicant should advise if the home is two (or more) stories and provide floor plans for all levels.

v. The comparison sheet provided by the applicant, lists a "finished rec room". This area should be shown on the floor plans.

b) *The applicant provided photos of homes with similar architectural design as the proposed. However, none of the comparable homes are within the Country Crossing subdivision. Only 22 Van Tassel Court is close to the subject home. We recommend you consider similarity and dissimilarity of the proposed home to homes within the same development.*

c) *We have the following comments on the tabulation of areas provided by the applicant:*

3. Ridge Preservation – This property ranges greater than 900-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 44. Our comments on Ridge Preservation follow:

a) The applicant should confirm whether the home is visible from the view corridor for you to consider applicability under this section of your Code.

b) Non-reflective windows are a requirement of your Code (§310-13.B.4), the applicant should confirm compliance on the plan.

c) The applicant should confirm whether any trees are proposed for removal as part of construction of the proposed additions and deck. We note the Code (§310-13.B.5) requires to the greatest extent practical clearing and tree removal should be minimized, and any healthy tree with 8-inch diameter at breast height shall not be removed unless essential to the location of the structure.

Chairman Gerver pointed out that the compatible pictures must be taken within 300 ft. from home. Photos that were submitted are from houses that are quite a distance from the property. M. Pastel asked if the development is on well water or municipal water. It was clarified that this application was exempt from the moratorium due to the water being provided from a different water source. Engineer Barber said she would take a closer look and update the Board.

Mr. Estein was advised what needs to be done and resubmitted before the Applicant's next meeting with the Board.

- G. OC BMW** – Review and discuss documents submitted for ARB of proposed changes to existing car dealership showroom and service center including the addition of 3 charging stations. Said property is located at 101 Maher Lane and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lot 10.421 & 10.421-1.

Present BMW General Manager Sami Ozder, Engineer Pietro A. Catizone, and Engineer Mathew A. DeCecco.

A disclaimer regarding this application: T. DeLuca announced that he was previously employed with the owner and believed he could be impartial.

Engineer Catizone said the OC BMW would be undergoing architectural changes. He proceeded by sharing his screen showing the existing building and explaining the kind of changes noted on the site plan. There are two buildings, sales and service, and he said they would install a soffit along the overhanging eaves along the three sides of the sales building and two sides on the service building. He noted that the soffit extends beyond the setback, and they are willing to work with the Building Inspector and follow the code as indicated. Engineer Catizone also mentioned providing a parapet, eliminating two parking lot lighting, and updating the buildings by installing led lights. He continued to say there would also be three charging stations. They also want to correct the drainage with small inlets or connections to the drainage system. He clarified that there would be no new signage; the current signs would be converted to led lights and mounted to the building. He also wanted it to be known that the footprint of the buildings would not change. He continued pointing to the Board sections where they will make architectural changes.

T. DeLuca asked if BMW requires these changes for all the dealerships, and Mr. Ozder replied yes. The Chairman asked if the charging station would be public access. Mr. Ozder said the electric vehicle charging stations will be for their sales use and service use, not for public use. It will not be part of the BMW network for charging stations; it will be considered private. He noted that for BMW to make it public, they would need eight to ten designated parking spaces, and the demand for these stations is at least two years behind. T. DeLuca asked if these private stations would be shut off after business hours to avoid public use. He expressed his concerns with vehicles appearing to charge their vehicle. Chairman Gerver added that it would increase traffic on an already busy road. There was further discussion as the Chairman pointed out access issues for the Fire Department.

T. DeLuca asked if the Applicant could provide the BMW redesign requirements so that the Board can understand what changes should take place. Engineer Catizone tried to explain and show using the renderings and said they could provide the information T. DeLuca is asking for.

Engineer Barber referred to her comments and asked that the Applicant responds in written form since most of her remarks were answered by Engineer Catizone in his presentation. She then proceeded to parts of the H2M memo that was not addressed.

H2M Memo dated August 12, 2022:

1. Zoning – a) Use – The subject property is in the IB Zone. The use is permitted by special permit and site plan approval by the Planning Board. b) Bulk Table – The applicant has provided a table listing the zone required bulk and area requirements and their understanding of compliance. For the most part the proposed improvements do not impact compliance with bulk criteria. The exception is the added soffit to the existing showroom building which projects into the front yard (Larkin Drive) by approximately 2.8- ft. This is a proposed non-conformity which appears to require a variance from the ZBA unless the applicant modifies their plan. (ZBA Referral).

b) Drainage – The applicant proposes drainage improvements along the northern side of the existing sales building to collect runoff from the roof and discharge to an existing catch basin in the parking area. The area is existing impervious the proposed changes will result in limited site disturbance. The applicant plan provides two alternatives for the drainage system: a series of field drains versus underground pipe with wye connections to roof leaders. Note 2 on Sheet C-1.1 of the drainage plan indicates “If field conditions allow, as determined by OCBMW and/or structural engineer, the existing roof leaders shall be connected below grade”. The applicant should discuss their general preference on the two alternatives and confirm if roof leaders are proposed to discharge directly above the field drains, if not connected to underground pipe via wye.

c) Lighting – The applicant proposes to remove approximately four (4) existing light poles and upgrade light fixtures to LED. They have provided a lighting plan for you to consider the changes to light levels proposed for the site. We recommend this plan be adjusted to clearly show the property lines so you may consider light spillage onto adjacent properties and roads. We note you typically require light levels be limited to 0.1-fc at property lines and fixtures that prevent off-site glare which meet IDA, LEED or Green Globes criteria for nighttime friendly or Dark Sky lighting. We recommend the applicant confirm compliance on the plan. Additionally, we note conditions of your prior approval include requirements to reduce light levels for security purposes not later than 10:00PM each night. Applicant to confirm intent to comply.

d) Landscaping – In one proposed location of the electric charging station there is a plan note to relocate an existing shrub. The applicant should show where the shrub is to be relocated and confirm that no other changes to landscaping are proposed.

b) Signage – The applicant should confirm all changes to signage that are proposed. On Sheet A-103 of the BMW Service Center roof plan there are notes indicating “relocated existing brand sign” and “updated brand sign”. The applicant should describe if any signs are being added, where signs that are being relocated existed previously, and provide details of the updated brand sign for you to consider compliance with your Code (§310-30 & Signage Table).

T. DeLuca asked if the Applicant would use existing parking spots and designate them as charging stations and if so, will they be considered exclusively for electric vehicle stations? Mr. Ozder said no, they would be used at their discretion. Engineer Barber added that the parking spaces are set outside the parking limit, so they don't encroach on any areas. Engineer Catizone added that one charging station could charge two spaces simultaneously. Engineer Barber added that one charging station disturbs the existing landscaping.

Attorney Naughton agreed with Engineer Barber regarding her comment on zoning. She said the Applicant could pull back so they won't be encroaching, or the Board could issue a referral if they would like to go before the ZBA.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, 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 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

The Chairman noted that the GML 239 referral had not been determined.

A motion was offered by Chairman Gerver, seconded by M. Pastel, authorizing Engineer Barber to inquire about an interpretation from the Building Inspector on the encroachment and to prepare a referral to the Zoning Board of Appeals. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED
AYES 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

T. DeLuca asked if the BMW corporate policy on electric vehicle charging stations is something the Board should review, and Chairman Gerver said that is something the Board would make as a condition in the Resolution of Approval. The charging stations are to be used only by the BMW dealership, and if that is to be changed, the Applicant is to come back before the Board.

Mr. Ozder and Engineer Catizone thanked the Board.

Adjournment:

With no further business to discuss, a motion was offered by M. Pastel, seconded by Chairman Gerver, to adjourn the meeting at 9:09 PM.

ADOPTED
AYES 3 Chairman Gerver, T. DeLuca, M. Pastel
NOES 0

Claudia Valoy-Romanisin, Planning Board Secretary