

The minutes of the Zoning Board of Appeals Meeting held on Thursday, March 9, 2017, beginning at 7:30 PM.

## PLEDGE OF ALLEGIANCE

<u>ROLL CALL</u>	Edwin Rivera, Chairman	- Present
	Jose Guareno	- Excused
	Deyanira Martinez	- Present
	Richard Santiago	- Present
	Jose Hilario	- Present
	Dennis Michaels, Village Atty.	- Present
	Ruben Berrios, Bldg. Inspector	- Present

Edwin Rivera: Chairman Rivera opened the meeting with an application regarding the property located at 33 Sharp Street **26.52-2-47**

Rosanda Aponte, 33 Sharp Street: Ms. Aponte came in front of the board to request a permit to convert from a legal one family to a legal two family dwelling and habitable space in basement for her kids. When she submitted the application requesting habitable space in the basement she was informed by Inspector Ruben Berrios that the second apartment upstairs permit was only for two years. So until this point in time she thought that her home was a legal two family dwelling.

Ruben Berrios: Inspector Berrios gave a brief summary of the proposal; Ms. Aponte came in 2004 for a permit to convert the home to a two family dwelling. She was approved for two years but never came in for the permit or Certificate of Occupancy. In recent weeks, she came to apply for a permit to finish the basement for habitable space. When reviewing the application he noticed she had stated it was a two family dwelling. This is why Ms. Aponte is now in front of the Zoning Board.

Rosanda Aponte: Ms. Aponte stated she did not understand because in 2006 she was inspected by the assistant inspector as a two family dwelling.

Ruben Berrios: Inspector Berrios stated one thing has nothing to do with the other.

Rosanda Aponte: Ms. Aponte stated she really did not understand that it was only for a two years period. She thought the approval was valid as long as she lived in her home. And she wished she would have been reminded.

Ruben Berrios: Inspector Berrios stated to Ms. Aponte it was her responsibility to a permit and Certificate of Occupancy.

Deyanira Martinez: Ms. Martinez restated basically applicant would to finish basement and convert to a legal two family.

Edwin Rivera: Chairman Rivera wanted to know if home is in R2 zone. Mr. Rivera asked if applicant has a sketch of the work she wants to do in the basement.

Rosanda Aponte: Ms. Aponte submitted plan with application.

Edwin Rivera: Chairman Rivera asked Ms. Aponte you had stated previously she wants to make the basement habitable space for her kids.

Ruben Berrios: Inspector Berrios stated she currently occupies the first floor.

Jose Hilario: Mr. Hilario just wanted to clarify Ms. Aponte is currently living in the first floor and has a second apartment on the upper level of the home. And she is looking to fix the basement for her son.

Edwin Rivera: Mr. Rivera questioned what will be done the basement

Rosanda Aponte: Ms. Aponte stated she would be constructing two bedrooms and a bathroom.

Edwin Rivera: Chairman Rivera state so she will be putting up drywall and a drywell

Ruben Berrios: Mr. Berrios stated she would have to do the windows and drainage.

Edwin Rivera: Chairman Rivera scheduled a site visit for Thursday, April 13<sup>th</sup> at 6:30pm, with the Public Hearing to be held that same night.

Chairman Rivera then announced the next item on the agenda 66 Maple Avenue, Jared Rodriguez **27.53-2-53**

Jared Rodriguez, 9 Col Conklin Drive, Stony Point, NY: Mr. Rodriguez purchased a vacant located on 66 Maple Avenue and he is looking to build single family dwelling which he would occupy with his wife Lindsay. In order to build a home, conform to the surrounding historic houses and set existing setbacks he would like to ask for a couple of variances. The first variances he is requesting would be a five foot side yard to be able to access the existing driveway to the existing garage. He is looking for a six and half foot front yard setback and also a distance of thirteen and half feet from principle building to accessory building which is the garage. He presented a bulk table to the board members showing what they are requesting as well as the exciting requirements.

Edwin Rivera: Chairman Rivera inquired if there was an old colonial in the past.

Jared Rodriguez: Mr. Rodriguez stated yes he believes it burnt down

Ruben Berrios: Inspector Berrios stated that they need to have enough access in the driveway to get to the back of the property. He needs a variance on one side.

Jared Rodriguez: Mr. Rodriguez stated they would like to do a front porch have it line up with all the front porches on the street.

Edwin Rivera: Chairman Rivera would like to see the plans of the home.

Jared Rodriguez: Mr. Rodriguez stated he doesn't have plan as of yet because was looking to get the variance before hiring an architect.

Dennis Michaels: Counselor Michaels informed Mr. Rodriguez that the plans helps the Zoning Boards understand why he needs the space. He asked Mr. Rodriguez to ask an architect for a little more than conceptual drawings not full blown drawings.

Jared Rodriguez: Mr. Rodriguez stated that he has conceptual drawing but they are not stamped by an architect. He is a civil engineer by training.

Dennis Michaels: Counselor Michaels inquired to applicant if plans have dimension of the rooms, height of the home and numbers of rooms. And if so that is what they need to see for now. Eventually you will need stamped plans.

Ruben Berrios: Inspector Berrios informed Mr. Rodriguez, that board would like to see height of the home on the plans.

Jared Rodriguez: Mr. Rodriguez is looking to achieve high ceilings by having taller ground floor. A Victorian design similar to what we see on Hudson Avenue.

Deyanira Martinez: Ms. Martinez then scheduled a Public Hearing to be held on Thursday, April 13<sup>th</sup>.

Edwin Rivera: Chairman Rivera then entertained a motion to open the Public Hearing with regard to North Brook Realty LLC, 173 Broadway **26.44-2-8**

RESOLUTION # 7-2017

Motion by: Deyanira Martinez

Seconded by: Richard Santiago

Motion Carries: All

Bill Press 191 N Pascack Road Spring Valley, NY and Jerome Meckler, 144 Route 59, Suffern, NY

Jerome Meckler: Mr. Meckler stated their plan is to renovate the entire inside using what is in exists now which means installation, new electrical, and 2X6 studs. He demonstrated in the packet the exterior of the building on Broadway. He stated nothing will be changing to the exterior except for the size of the window to comply with state code. The windows were all under size for egress. On the site plan he pointed out they will be adding no more than three hundred square feet. The foot print of the back yard will remain the same. We will bring the first floor to the second storey of the building. The third storey will be extended a bit in the back but not go past the where the first floor is at the present moment. Bedrooms did not have any windows this is the purpose of the extension.

Ruben Berrios: Inspector Berrios wanted to know if they are only going up to the second storey just to make the bedrooms bigger.

Jerome Meckler: Mr. Meckler said yes but we are also extending the three floor.

Ruben Berrios: Mr. Berrios was not aware of the extension of the third floor. The last discussion they had was only regarding the second floor getting bump out.

Jerome Meckler: Mr. Meckler said on the third floor we will be adding twenty to thirty square feet.

Ruben Berrios: Inspector Berrios would like to know how far out will they be bumping it out.

Jerome Meckler: Mr. Meckler indicated that they are staying within the lines of the building. They have not gone back any further than the current footprint. And the reason they are going back it is for windows.

Ruben Berrios: Inspector Berrios inquired how many feet back are you going with the third storey.

Jerome Meckler: Mr. Meckler answered less than 10 feet. There is a shed there at the present moment that goes over the second floor. He will go all the way out to the shed.

Ruben Berrios: Inspector Berrios questioned will they be extending the third floor as well.

Jerome Meckler: Mr. Meckler stated yes.

Ruben Berrios: Inspector Berrios understanding was they were going to go to the second floor to enlarge the bedrooms. Now they are going up another 10 feet on the third floor. Inspector Berrios understands what they are saying but we are only allowed to go up two and half storey so the third storey is a legal non conforming use. That would be another variance to present to the board.

Jerome Meckler: Mr. Meckler stated that they are not going any higher than what it is now.

Dennis Michaels: Counselor Michaels do they have any architectural plans to show what they are proposing.

Edwin Rivera: Chairman Rivera questioned part of the plan as it being new or an extension. He also inquired the measurements of the extension are they thirteen by twelve.

Jerome Meckler: Mr. Meckler pointed to drawing of plans and demonstrated what he intends to extend. He stated the third floor does not extend all the way over the building.

Ruben Berrios: Inspector Berrios stated the problem with the plans is that it does not show what is being proposed and what's in exists. He also stated that they are basically adding another room on the third floor.

Jerome Meckler: Mr. Meckler stated that they are also changing the stairs.

Dennis Michaels: Counselor Michaels inquired will the building be sprinkled.

Ruben Berrios: Inspector Berrios the whole building will be sprinkled

Jose Hilario: Mr. Hilario stated they just need to see what exact variance they are asking for and how many feet they will be extending. Without that they cannot approve application.

Ruben Berrios: Inspector Berrios questioned will they be going from a two bedroom to a three bedroom.

Jerome Meckler: Mr. Meckler answered yes

Ruben Berrios: Inspector Berrios inquired if they will be extending the apartments as well.

Jerome Meckler: Mr. Meckler one of the conditions when I was walking around looking at the building with the owner a women came across the street and asked of me to please make a three bedroom apartment. She stated to him that she would rent it. Mr. Meckler stated the need is there and defiantly would have a renter. They were able to get in a three bedroom with in area without extending past the footprint of what is in exists of the building now.

Ruben Berrios: Inspector Berrios understands what Mr. Meckler is stating but his question is they are making the apartments bigger. They are extending the third storey as well and the building inspector understanding was that they were extending the second floor to make the bedrooms big enough so you could have nice size bedrooms.

Jerome Meckler: Mr. Meckler stated also to add windows for egress. The extension to the third floor is 10 foot of what is in exists now.

Jose Hilario: Mr. Hilario inquired are they looking for a 10 foot variance.

Jerome Meckler: Mr. Meckler stated they need a 10 foot variance plus the second floor and pointed to the plans.

Dennis Michaels: Counselor Michaels stated Inspector Berrios need to digest this because he cannot make an approval on the fly. Applicant will have to come back next month. The inspector will need some clarification on the drawings. For example crossing hatching so the board could see what they are proposing.

Ruben Berrios: Inspector Berrios asked Mr. Meckler to bring plans showing what is presently there now and what they are proposing to do with all the variance needed. They are only allowed to have two and half storeys and you presently have a legal non-conforming of three storey. You are extending that third floor with that being said you are extending a legal non conforming use and you are also extending the number of rooms you have per apartments so that is another variance they need. The board really needs to look at the entire picture.

Jerome Meckler: Mr. Meckler stated the variances are within the apartment.

Ruben Berrios: Inspector Berrios answer but you are still extending them.

Dennis Michaels: Counselor Michaels explained what the building inspector was speaking to was as follows, there are sections in the Village Code and that goes about any municipality you are allowed to continue your preexisting non conforming use in perpetuity but you don't necessarily have a right to extend it or to enlarge it. Some municipalities many have a mechanism that may allow you to do that but you would need approval from the Zoning Board of Appeals. Our local law does allow the extension of non conforming bulk in a non conforming use. This board doesn't have to grant you that, as part of their review they are entitled to understand why you need this additional space, where is it going, what it is going to look like, what is the extent of it and etc. What you have provided to us does not give enough information. Inspector Berrios could give exactly what we would like to see.

Jerome Meckler: Mr. Meckler agreed to bring in what Inspector asks him to do.

Ruben Berrios: Inspector Berrios stated what needs to be brought in to the next meeting is a drawing showing what is being proposed and what is in

existing in the floor plan. A side view of the building so the board could get an idea of how far you are going out.

Dennis Michaels: Counselor Michaels does anyone want to come up from the public regarding 173 Broadway. No answer for the record. This public hearing will remain open until the next meeting which will take place on Thursday, April 13<sup>th</sup>, 2017 at 7:30pm. No mailings are needed since this was a public announcement.

Edwin Rivera: Chairman Rivera then entertained a motion to open the Public Hearing with regard to Wilson Cabrera, EW Management LLC, 38 Middle Street. **27.54-2-62**

RESOLUTION #8-2017

Motion by: Richard Santiago  
Seconded by: Jose Hilario  
Motion Carries: All

Ted D'Amore, R.A., 136 Stevens Avenue, Mount Vernon, NY and Wilson Cabrera, Owner, 126 Horton Town Road, Carmel, NY

Ted D'Amore: Architect D'Amore is requesting several variances for 38 Middle Street a residential site on a R2 zone. The R2 zone normally requires ten thousand square feet to be developed and they only have thirty-eight seventy-two square feet but it's an existing lot. It's an existing under size lot it's allowable to be developed but we cannot meet the side yard, the backyard or the front yard requirements because the lot is just too small. There was a house there before but it is down and there was another lot next to it which we purchased and combined both lots. So we have increased it as much as we can they can purchase more neighborhood property because they are all occupied.

Ruben Berrios: Inspector Berrios stated this particular house was a three or four family and they now have merged two lots so they are going considerably less than what they had in the past.

Ted D'Amore: Architect D'Amore stated and demonstrated the normal lot with a requirement is ninety feet and they only have forty-four and a half, front yard is normally thirty feet and we only have ten feet and a third, side yard is normally fifteen feet with a total of thirty foot minimum and we only have eight feet on one side and on the other seven and a half and it gets a bit smaller when you go to the back. On each side we have seven and a half. He pointed out where the neighbor house sits and in a packet he included to show where the other house in the neighborhood sits. Some of the houses have a much smaller front, side and back yards than ours. This is an old neighborhood that was developed before zoning even existed. We are doing our best to do an improvement to the neighborhood because the other home that existed did not have parking. We have two parking garages in the basement and we are set back far enough we can park two cars in the driveway as well. So we hit that point on the zoning chart successfully.

Ruben Berrios: Inspector Berrios inquired will they be meeting the two and a half storey code.

Ted D'Amore: Architect D'Amore stated it depends on the building code we are three storeys but by the zoning code we are two and a half storeys because we are dropping the basement into the ground. Building Code and Zoning Code

do not always agree with each other they change all the time. The house is extending out in the front by nine feet eight so that the cars could drive down into the garage.

Ruben Berrios: Inspector Berrios stated we do not want to exceed the two and half storey that the zoning code requires. On the plans the wording of three storeys needs to be changed to two and half storey.

Ted D'Amore: Architect D'Amore stated we will call two and half storey because that is what we are.

Deyanira Martinez: Ms. Martinez just wanted to be clear and inquired was it two lots combined.

Ruben Berrios: Inspector Berrios stated it was two separated lots, one was a small lot and they merged both lots. Now it's a bigger lot and before it was a three family house and now they are making a two family house.

Edwin Rivera, Chairman: Chairman Rivera inquired about the front of the house, is it siding.

Ted D'Amore: Architect D'Amore stated and demonstrated by pointing to drawings, they have a brick veneer that goes around the front entrance door, the front entrance door is set back a little bit, brick piers that are holding up the extension in the front, brick veneer at the front of the garage, stucco on the side of the house, and vinyl siding above it.

Edwin Rivera, Chairman: Chairman Rivera inquired on the bottom level of the home will they have flood problems

Ted D'Amore: Architect D'Amore stated they are only going down two and half feet.

Deyanira Martinez: Ms. Martinez questioned is it a two car garage.

Ted D'Amore: Architect D'Amore said yes and it goes right under the house.

Edwin Rivera, Chairman: Chairman Rivera inquired does the person in the two car garage have access from inside to the apartments.

Ted D'Amore: Architect D'Amore stated and demonstrated; yes each underground garage has access from inside to each apartment as well as room laundry, boilers, and small storage space.

Edwin Rivera, Chairman: Chairman Rivera inquired if both apartments are the same.

Deyanira Martinez: Ms. Martinez questioned they are three bedrooms.

Ted D'Amore: Architect D'Amore stated and demonstrated yes both apartments are three bedrooms.

Dennis Michaels: Counselor Michaels help us understand how the house is not three storeys and how this should not be treated to be three storeys.

Ted D'Amore: Architect D'Amore agreed to bring the grade up so it becomes a half of storey. He is going to rise a graded around three sides.

Ruben Berrios: Inspector Berrios stated that works.

Edwin Rivera, Chairman: Chairman Rivera invited the public to come forward if anyone is in favor or against 38 Middle Street. For the record there is no one present from the public.

With no further input, Chairman Rivera entertained a motion to close the Public Hearing.

RESOLUTION #9-2017

Motion by: Deyanira Martinez

Seconded by: Jose Hilario

Motion Carries: All

Dennis Michaels, Esq.: Counselor Michaels introduce the application of Wilson Cabrera, EW Management LLC, 38 Middle Street.

Counselor Michaels recited the considerations that are mandated by NYS Village Law 7-712-b (3) Area/Bulk Variance Considerations/Factors

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- (1) whether an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of the area variance; base upon the presentation made by Architect Ted D'Amore.
- (2) whether the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance; based upon the presentation of Architect D'Amore.
- (3) whether the requested area variance are not substantial; all the homes in the neighborhood do not have the front, back and side yard adequate space.
- (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; This is a type two so it is exempt under the SEQURA being there is no potential adverse environmental impact.
- (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.



Conditions to applicant are they will be raising grade around building as a result not to go over two and half storey as determined by the building inspector. And as per the notation on the plans, three storey needs to be eliminated and replaced with two and half storey.

Chairman Rivera entertained a motion to adopt the above motion with the two conditions as their own.

RESOLUTION #10-2017

Motion by: Deyanira Martinez  
Seconded by: Richard Santiago  
Motion Carries: All

ROLL CALL VOTE:	Edwin Rivera, Chairman – Yes
	Deyanira Martinez – Yes
	Richard Santiago – Yes
	Jose Hilario – Yes

The application was approved unanimously with four yes votes.

With no further business to be conducted by the Zoning Board of Appeals, Chairman Rivera entertained a motion to adjourn the meeting. Receipt

RESOLUTION #11-2017

Motion by: Richard Santiago  
Seconded by: Deyanira Martinez  
Motion Carries: All

Respectfully submitted by,

Erica M. Alejandro, Clerk Typist  
May 11<sup>th</sup>, 2017

Date filed with the Village Building Department:

Date filed with the Village Clerk: