

The minutes of the Zoning Board of Appeals Meeting held on Thursday, December 14th, 2017, beginning at 7:10 PM.

## PLEDGE OF ALLEGIANCE

ROLL CALL	Edwin Rivera, Chairman	- Present
	Jose Guareño	- Present
	Deyanira Martinez	- Present
	Richard Santiago	- Present
	Jose Hilario	- Present
	Dennis Michaels, Village Atty.	- Present
	Ruben Berrios, Bldg. Inspector	- Present

Dennis Michaels, Village Attorney: Mr. Michaels entertains a motion to open up the only Public Hearing on the agenda for the evening, Jorge Lopez, 33 Division Street, proposing to convert a one family into a two family dwelling. **27.46-1-40.**

## RESOLUTION #76-2017

Motion: Deyanira Martinez

Seconded by: Jose Hilario

Carries: All

Dennis Michaels: With the Chairman's permission, Mr. Michaels explained to the public and the board the applicant Jorge Lopez made some changes to the plans and as a result of that he will need to request additional variances that shall be determined by the building inspector Ruben Berrios. Mr. Berrios will look through the revised plans and he'll make a determination on which variances might be necessary. The public hearing will have to be re-noticed with the full list of all variances that are required for this application. Therefore, this application cannot be decided on this evening. However, because there will be at least one more public hearing on this, Mr. Michaels explained everyone will have another opportunity to come and speak again if they wish. If you wish to speak tonight you certainly have that right but you will be limited to a maximum of two minutes with the understanding that you will have at least one more opportunity to speak at our following meeting. Mr. Michaels called up Mr. Lopez to begin his presentation to the board and the public.

Jorge Lopez, Architect: Jorge Lopez, Architect 226 N Main Street, owner of and representing 33 Division Street. Mr. Lopez explains the property is in an R-3 zone which means it pertains to a one, two and three family zone. His proposal is to convert a one family dwelling into a two family dwelling. He explains the design will continue with the architecture of the neighborhood. Each apartment will have about 1700 square feet. He then asked if the board or public had any questions.

Jose Guareño: Mr. Guareño asked Jorge if he could speak more about the new revisions.

Jorge Lopez: Mr. Lopez explained he added the dormer in the front of the house to break the roof design on the third level. For the record, he explains originally the roof peak was about 26 feet, and with the new addition it reaches a 30 feet peak; you're allowed up to 35 feet.

Dennis Michaels: Mr. Michaels explains the additional variances needed are because he is now adding habitable space on that third level. The section in the Village of Haverstraw Zoning Code is §245-30 that reads, “Normal maintenance repairs structural alterations in the moving reconstruction or enlargement of a building with non-conforming bulk is permitted with the approval of the Zoning Board of Appeals if the same does not increase the degree of or create any new non-conforming bulk in such building provide that sec-repair reconstruction completed within the one year after the destruction set building.” Mr. Michaels states he would need a variance from section §245-30 in the Zoning Code.

Jose Guareño: Mr. Guareño asked Mr. Lopez what the purpose of the addition was for, aside from the design.

Jorge Lopez: Mr. Lopez stated the use would be for utilities such as a washer, dryer and a boiler.

Dennis Michaels: Mr. Michaels mentions for the record, any items used such as utilities by humans in a room are considered habitable space.

Edwin Rivera: Mr. Rivera invited the public to come forward with any questions or concerns regarding the project for the property on 33 Division Street.

Perry Holmes, Spring Valley, NY: Mr. Holmes stated from what he sees in the structure, the building is already built. From his understanding and what he’s learned regarding buildings, there’s suppose to be permits visible for the view of the people. Mr. Holmes stated he hasn’t seen any permits.

Ruben Berrios: Mr. Berrios explains there is a current stop order on the third floor addition that he put a couple of days ago. He also noted and wanted to make clear there is a current permit issued for the structure repairs of the building but not for the third floor.

Pastor Caliman, Spring Valley NY: Mr. Caliman is the Pastor of the Baptist Church in Haverstraw for 19 years now. The Pastor mentions, walking space between the fence and the building are very limited, there’s no front door, and the building has also gone a level up that did not previously exist. He was told by Jorge’s behalf that they needed to get permits to complete the work only if they got permission for parking spaces which he has not received. They also met with him and explained why they will not get the Church’s permission to park in the Church’s parking lots. The building continues to be constructed and Mr. Caliman believes there seems to be issues with communication. Many things have happened since the construction of the third floor addition such as the cutting down of trees; which was done on a Sunday during worship service that lasted two hours. Mr. Caliman also found equipment that shouldn't have been on the property. He proposed a stop order on the entire building until everyone can get a full understanding of what this project entails, how long it will take and what it means to the community.

Edwin Rivera: Mr. Rivera invited the next speaker to come forward with any questions or concerns.

Ashana Kee, 29 Clinton Street: Ms. Kee had concerns regarding the certified Public Notice she never received and wanted to know why.

Dennis Michaels: Mr. Michaels explains the only residents who're required to receive notices are the ones whose lot lines either touch the proposed site or be directly across the street.

Leslie Qusoar, Nyack, NY: Leslie pointed out that there are two Church buildings on Main Street. She wanted to know if those properties were also asked to give up parking spots on their lots. She mentioned there are several municipals in town so she doesn't understand why their lots have to be used when there are other churches around the area as well.

Dennis Michaels: Mr. Michaels states in order to meet off street parking requirements for a residential building you cannot satisfy the off street parking by saying I'm leasing spaces or I have a license agreement with the church across or down the street.

Pastor Caliman: Mr. Caliman states they were told in the business meeting of the Trustees that they would offer \$5000 for the use of four spaces in the parking lot which they rejected. Pastor Caliman stated they could not get a permit to continue building until they acquired the permits for those four spaces. Daniel Freeman on November 21st was on jurisdiction when he made the proposal. Mr. Caliman stated if you can allow other people to come on private property to park their vehicles so the neighbors can make a profit on their buildings why do they have to come to a Church to take their parking spaces? If anyone gets hurt, or if the parking area gets damaged, who is then responsible? Pastor Caliman also mentioned Daniel Freeman offered to rent out to the parishioner which was an insult to the Church.

Ruben Berrios: Mr. Berrios mentions this is the first time he hears of this \$5000 proposal for the parking.

The board can agree that this is the first time they hear of this also.

Pastor Caliman: Mr. Caliman also mentioned Mr. Michaels taking Jorge Lopez to the back room to speak privately was questionable.

Dennis Michaels: Mr. Michaels explains it's common for attorneys for boards to meet with the applicants to explain procedural suggestions. The suggestion he made to Mr. Lopez was the exact same suggestion that he stated out to the public. As a courtesy to Mr. Lopez, Mr. Michaels wanted to explain to him that there was an issue with his application due to revisions to the plans that weren't published reflecting those new changes. He advised Jorge that the board cannot vote on this tonight and it would have to wait until the next public hearing.

Pastor Caliman: Mr. Caliman again proposed a stop order on the entire project.

Ruben Berrios: Mr. Berrios mentions there is a stop order on the third floor addition only.

Dennis Michaels: Attorney Michaels states it is up to Ruben, the Building Inspector to decide whether or not the entire site project can be stopped.

Jose Guareño: Mr. Guareño wanted to clarify that what altered the application was in fact the addition of the dormer on top and extending the height. He mentions

prior to that, the residence was a 4 bedroom 1 family dwelling. Mr. Lopez is not adding any bedrooms once we proceed to the next public hearing. His only proposal is to change a one family into a two family dwelling because the preexisting house was originally a four bedroom house.

Linda Epps, 32 Clinton Street: Ms. Epps wanted to revisit the protocol for the notices prior to a Zoning Board meeting. She received a certified letter notice on Tuesday December 12th that there was a meeting today. Is there a procedure where you notify the public in advance?

Ruben Berrios: Mr. Berrios explained after the previous meeting, we gave Jorge Lopez a list of properties he would have to mail out to the residents before the next meeting. He's also obligated to bring in the return receipts as proof of the mailings.

Sandra Bullock, Member of Fairmont Baptist Church: Ms. Bullock asked the board, if ten notices are sent out, how many do you have to have back in order to have the meeting?

Ruben Berrios: Mr. Berrios stated if ten notices go out, all ten have to come back even if the resident did not receive the notice. There has to be proof that they were mailed out within reasonable time.

Sandra Bullock, Member of Fairmont Baptist Church: What is considered reasonable time?

Ruben Berrios: Mr. Berrios explained we try to have the notices ready for the applicant to send out within 1 week after the meeting. Before the letter is sent out, Mr. Berrios has to acquire a list of properties, make the letter and then it's given to the applicant.

Sandra Bullock, Member of Fairmont Baptist Church: Asked the board when do the meetings take place?

Ruben Berrios: Mr. Berrios explained the meetings take place once a month on the second Thursday of every month.

Dennis Michaels: Mr. Michaels explains it's the date that the letter is mailed out that determines the proper notice time. Mr. Michaels explains according to the public notices, they are required to be published in the official paper of the Village at least five days before the public hearing and mailed to adjoining property owners as well as the property directly opposite the residence across the street needs five days; by mailing the copy of the notice to such persons as their names and addresses appear on the last assessment rules of the village but, failure to give such additional notice shall not invalidate any action of the board or effect its jurisdiction nor shall giving of such additional notice render any such person and agreed person otherwise not agreed under the law. With regard to paying for the parking spaces, whether or not Mr. Lopez decides to, there's a provision in the zoning code that allows anyone in the Village to use other people's property to satisfy the off street parking requirement as long as the owner consents. Not only that, but the other property owner has to file a restrictive covenant or an easement recorded in the Rockland County Clerk's office which becomes a burden on their deed. Most property owners are very unlikely to do that without payment by Mr.

Lopez or anyone like Mr. Lopez which is legitimate. Mr. Michaels asks the clerk to the board Michelle what the exact dates on the slips show.

Michelle Ventura: Ms. Ventura stated they all have a stamped date of November 16, 2017.

James Blackwell, 74 Roosevelt, West Haverstraw: Mr. Blackwell mentioned that Mr. Guareño stated there were four bedrooms prior.

Jose Guareño: Based on the application given to the Zoning Board, Mr. Guareño confirms there were four bedrooms prior to work being done on 33 Division.

James Blackwell, 74 Roosevelt, West Haverstraw: Mr. Blackwell continues stating he's been in this house plenty of times and noted the upstairs only has three bedrooms and a bathroom; there's no fourth bedroom. Mr. Blackwell explains it should've been specified as three bedrooms and a bathroom on the top floor, the downstairs a living room, kitchen, dining room and another small bathroom.

Jose Guareño: Mr. Guareño explains that on the application that the board received, there were four bedrooms that were legally there.

Deyanira Martinez: Ms. Martinez asked Jorge Lopez if he could please clarify for the board and public.

Jorge Lopez: Upstairs has four bedrooms. They had a smaller bedroom on one side, a larger bedroom on the other side and two facing the street.

Barbara Welch, Pomona, NY: Asks the board with all the parking lots in Haverstraw, why can't they pay to park in the lots and how can you tell someone to give up their property for someone else to park? There are parking spots on Hudson Avenue, alternate parking spots, and Knights of Columbus off of Division Street.

Dennis Michaels: Explains to the public Mr. Lopez's property is grandfathered for the two off street parking spaces for a one family dwelling unit. He's proposing a new second dwelling unit now so he needs two for the new one but he doesn't need two for the old one.

Barbara Welch, Pomona, NY: Ms. Welch asked Mr. Michaels where the previous home owners parked their cars.

Dennis Michaels: They parked somewhere legally or they got ticketed.

Edwin Rivera: Mr. Rivera asks the public who owns the Church's parking lot?

Barbara Welch, Pomona, NY: The Church does.

Edwin Rivera: Mr. Rivera explains since its private property no one can park on your private property unless permission is given.

Dennis Michaels: If there is any kind of dispute over private property that's handled in the State Supreme Court but not here.

Ruben Berrios: So you're saying that part of 33 Division belongs to the Church?

Woman 1: No, he wants to park his future tenants in our Church parking lot.

Dennis Michaels: Mr. Michaels explains that would be between you and Mr. Lopez. You don't have to allow him or anyone to park on your private property because it's your property.

Edwin Rivera: If it happens without consent you could call the cops or tow company and they will remove the vehicles.

Woman 1: Daniel Freeman was the man that came to us and I guess a transaction happened between October 21<sup>st</sup> and November 16<sup>th</sup> and now it's no longer Daniel Freeman but Jorge Lopez; but we spoke to Daniel Freeman on October 16th.

Dennis Michaels: No one can park on anyone else's property without the property owner's permission and this board cannot impose that on anyone either.

Dennis Michaels: Mr. Michaels explained Jorge Lopez submitted his revised plans. Ruben has to review those plans and then send them out to the County Department of Planning. It will also have to go to the Architectural Review Board.

Dennis Michaels, Village Attorney: Mr. Michaels entertained a motion to keep the Public Hearing open for the matter of Jorge Lopez 33 Division Street. It shall remain open and will continue to a future meeting board with new public notices that will be mailed out. The target date will be on January 11<sup>th</sup> however it might move forward to February so please check the notices or verify here in the Village Hall.

### INFORMAL

Edwin Rivera: Mr. Rivera presented the first Informal of the night, Reyes Dominguez, 18-20 Conklin Avenue. **26.44-2-46**

Antonio Matias, Dreamscapes Contractor: Mr. Matias is representing the project for the property on 18-20 Conklin Avenue. He is proposing lot coverage for black top on rear of driveway for parking.

Ruben Berrios: Mr. Berrios explains the owner is looking for a variance for lot coverage of 18%.

Jose Guareño: What currently exists on the area where you want to put the black top?

Antonio Matias: Black top but there's grass growing through it so most of it needs updating.

Jose Hilario: So you will take out the old black top and put in new black top?

Antonio Matias: Correct.

Edwin Rivera: How many existing legal parking spots do you currently have for this two family dwelling?

Reyes Dominguez, Home Owner: Currently there are five spots.

Deyanira Martinez: How many parking spaces are you planning on adding?

Antonio Matias: Maybe another 3-4 spots incase family comes over to visit. The main goal is to clean up the property. We just put up a fence with an approved permit last week.

Jose Guareño: Mr. Guareño asked for a visual line using marking paint of where the parking spots will be located on site.

For the record a site visit was scheduled for 1/11/18 at 6:30 pm.

Mr. Rivera entertains a motion to send to the Public Hearing for next month.

RESOLUTION #77-2017

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

Edwin Rivera: Mr. Rivera presented the second informal of the night for Ramon Cruz, 6 Allison. **27.46-1-82**

Jorge Lopez, Architect: Representing Ramon Cruz on 6 Allison Street. Mr. Lopez explains they were on last month's agenda with the same purpose of the garage. Now, Mr. Ramon would like the same size garage pushed back further. This does increase the coverage up to 40.5%.

Ruben Berrios: Mr. Berrios confirms everything is the same except his proposal push it back.

Mr. Rivera entertained a motion to send to the Public Hearing for next month.

RESOLUTION#78-2017

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

Edwin Rivera: Mr. Rivera presented the third and final informal of the night Rocco Marino, 95 Clove Avenue. **27.53-2-65**

Rocco Marino Jr.: Mr. Marino from 95 Clove Avenue in Haverstraw NY is proposing a deck on the back off the house. Currently Mr. Marino has a porch that he's enclosing and with the approval of the board will add the deck addition.

Ruben Berrios: Mr. Berrios mentions to the board Mr. Marino meets the side yard requirements but doesn't meet the combination of both side yards.

Mr. Rivera entertains a motion to send to the Public Hearing for next month.

RESOLUTION #79-2017

Motion: Jose Hilario

Seconded by: Jose Guareño  
Carried by: All

Edwin Rivera entertains a motion to approve the minutes from the last board meeting.

RESOLUTION #80-2017

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

With no further business to be conducted by the board, Chairman Edwin Rivera entertained a motion to adjourn the meeting.

RESOLUTION #81-2017

Motion: Jose Guareño  
Seconded by: Deyanira Martinez  
Carries: All

Respectfully submitted by,

Michelle Ventura, Clerk Typist  
December 20<sup>th</sup>, 2017