

The minutes of the Zoning Board of Appeals Meeting held on Thursday, May 10th, 2018, beginning at 7:30 PM.

PLEDGE OF ALLEGIANCE

<u>ROLL CALL</u>	Edwin Rivera, Chairman	- Absent
	Jose Guareño	- Present
	Deyanira Martinez	- Present
	Richard Santiago	- Absent
	Jose Hilario	- Present
	Dennis Michaels, Village Atty.	- Present
	Ruben Berrios, Bldg. Inspector	- Present
	Michelle Ventura, Clerk Typist	- Present

Mr. Jose Guareño opened up the meeting by making a motion to open up the first Public Hearing on the agenda, Clement Asemota, 17 Warren Avenue, Haverstraw, NY 10927. **27.37-1-40**

RESOLUTION 18-2018

Motion by: Jose Hilario
Seconded by: Deyanira Martinez
Carried by: All

Clement Asemota, 17 Warren Avenue: Good evening. My name is Clement Asemota and I am a recent owner of 17 Warren Avenue in Haverstraw. We have an unfinished walking basement and we wanted to finish it to make it a living space. We have a hardship due to my mother recently having a stroke. It would be easier to manage her health issues if we could add a bedroom in the basement.

Mr. Jose Guareño asked the public to come forward with any questions, concerns, or if anyone is in favor or against the bedroom addition in the basement.

Claudia Perry, 19 Warren Avenue: Good evening. My name is Claudia and I'm one of the neighboring properties on Warren Avenue. I'm for it, I spoke with all the neighbors and we are all happy and glad that we have good neighbors. We are all in support of it.

Jose Guareño: Thank you.

Claudia Perry: You're welcome.

Mr. Jose Guareño asked the public to come forward with any other questions, concerns, or if anyone is in favor or against the habitable space in the basement.

With no response from the public, Mr. Guareño entertained a motion to close the Public Hearing for 17 Warren Avenue. **27.37-1-40**

RESOLUTION **19-2018**

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

Jose Guareño entertained a motion to approve the application for the habitable space in the basement as submitted by the applicant.

RESOLUTION **20-2018**

Motion by: Jose Hilario
Seconded by: Deyanira Martinez

ROLL CALL :

Jose Guareño: Yes
Deyanira Martinez: Yes
Jose Hilario: Yes

Jose Guareño: Mr. Asemota feel free to reach out to Michelle, our clerk to the board to speak about the next steps in obtaining your permit after tonights board approval.

Clement Asemota: Thank you, goodnight.

Mr. Jose Guareño introduced the second Public Hearing of the night, 46 Hudson Avenue, Haverstraw NY 10927. **26.52-1-21**

Mr. Guareño entertained a motion to open this Public Hearing.

RESOLUTION **21-2018**

Motion by: Deyanira Martinez
Seconded by: Jose Hilario
Carried by: All

Jose Guareño: This application is in regards to the deck addition surrounding the pool with option 2.

Kimberly Tallandier, 46 Hudson Avenue: Yes correct.

Mr. Guareño asked the public to come forward with any questions, concerns, or if anyone is in favor or against the deck addition surrounding the pool.

Sally Carlevaro, 43 Leonard Street: Your house is one house away. I had a few questions about the deck. I understand the pool is there, you had that last season. Will the deck be wood or will it be concrete?

Kimberly Tallandier: The deck will be trecks, which is a form of wood.

Dennis Michales: It's like a manufactured composite that's man made.

Kimberly Tallandier: My front porch is that way to give you a better perspective.

Sally Carlevaro: That's a concern of mine. Will the front yard stay as is in regards to the grass and will this be done behind the fence?

Kimberly Tallandier: The deck is behind the fence. The front yard will stay as is.

Sally Carlevaro: Do you know how long this job will take? We've had a lot of construction in our neighborhood every season and it's usually a very noisy process.

Kimberly Tallandier: No, I haven't gotten as far as how long it would take with the workers but, it'll be done by the end of the summer.

Sally Carlevaro: So that's a season, that's a long time.

Kimberly Tallandier: I don't know exactly how long. I have to discuss with the workers and see exactly how long it should take.

Sally Carlevaro: Are there any additional projects associated with this approval besides the deck?

Kimberly Tallandier: No.

Jose Guareño asked the public to come forward with any other questions, concerns, or if anyone is in favor or against the deck addition surrounding the pool.

Gil Carlevaro, 43 Leonard: I live a corner behind you. I have two main issues. One is a quality of life issue. This passed season, you've been out there hard and heavy. Many nights from the beginning of the day and long hours into the night. Im not the type of

person that calls the police. I'm not the type of person who goes over and asks you to please be quiet. My wife has had to stop me several times from doing that. I'm afraid if you put this deck up and make this a large deck, it's only going to be noisier and later and really affect my quality of life.

Kimberly Tallandier: You know you can come over anytime if anything is bothering you.

Gil Carlevaro: I know but I'm not that kind of person.

Kimberly Tallandier: Or we can share numbers. I'm not home most of the time because I work 60 hours a week.

Gil Carlevaro: That's the problem it's usually the kids that make the noise and are outside until two o'clock in the morning playing loud music.

Kimberly Tallandier: Well that's not necessarily the case I don't think until two in the morning but if it happens feel free to give me a call. I'm a police officer and I work all types of hours and yes I do have teenagers in the house and they will be teenagers. But, I am a friendly owner so if we exchange numbers and I'm not home I will make a quick phone call home and tell them to knock it off and it's that simple.

Gil Carlevaro: I have to close my windows at night when it's a beautiful night out and put my air conditioning on and turn my tv up super loud just to drown out the noise and it's not fair.

Kimberly Tallandier: Absolutely I agree.

Gil Carlevaro: The other issue I have is there's been so much construction between you and the person right behind me, additions after additions after additions. I'm getting a flood through my backyard. Before you guys built your additions, I had no water in my backyard.

Kimberly Tallandier: I haven't structurally built anything for the house. I just bought the house in February of last year so whatever issues you're having it has nothing to do with me.

Gil Carlevaro: The previous owners before you and the person next to me have put additions on. There's no grass anymore and all the water run off comes into my backyard. When we get rainstorms, I have floods. We have to have some pumps outside in our yards to pump the water out.

Kimberly Tallandier: Ok, I'm sorry for the inconvenience and I had no idea. I personally haven't built anything.

Gil Carlevaro: This isn't you personally but the person before you.

Jose Guareño: I'm pretty sure that in terms of that kind of construction concern you can always speak to the building inspector about it.

Ruben Berrios: A deck is not an impervious service, that will not effect it.

Gil Carlevaro: But there's going to be a plastic deck. There's grass underneath it that will die. So what will absorb the water?

Ruben Berrios: What I'm saying is it's not solid, it's a regular deck. The water will then go through the dirt.

Gil Carlevaro: Yes the water will go through and hopefully percolate into the soil but there will not be any grass or roots to absorb so it will roll off down the driveway and onto my backyard.

Jose Guareño: In relation to her house, can you point out where your property is?

Gil Carlevaro: I'm right in the corner here.

Kimberly Tallandier: Right so his house is there and I'm building the deck all the way over here. I don't think my deck will make issues.

Jose Hilario: Mr. Hilario asked if Mr. Carlevaro can point out where the other neighbor is located.

Gil Carlevaro: They're towards the back of my house. Both houses are at a higher elevation than mine. That's all I have to mention.

Jose Guareño asked the public to come forward with any other questions, concerns, or if anyone is in favor or against the deck addition surrounding the pool for 46 Hudson Avenue.

Dennis Michaels: Did you want this to be looked at by any consultants in the Village? Once you close the public hearing there's nothing you can do. I'm not suggesting you

need to and i'm not in anyway implying that you should. But if you close the public hearing you've lost that opportunity.

Jose Guareño: Yes I understand and thank you for the advice but I think based off of where his property is and based off his complications, that's something he can bring up in the building department.

Dennis Michaels: Do you mean surface water runoff?

Jose Guareño: Yes exactly.

Dennis Michaels: I don't think so after the fact. I don't think that's something that can be addressed as a code enforcement issue. Once a certificate of occupancy is issued for the deck, if there's surface water runoff that's shedding off to a neighbor, that's nature. There's nothing Ruben can do.

Jose Guareño: Well the proposed deck is over 75 feet from his backyard.

Dennis Michaels: I'm not in anyway implying that you should but if you close the public hearing you've lost that opportunity.

Jose Guareño: So we will discuss this tonight and move forward with the applications.

Dennis Michaels: So they will discuss it more toward the end of tonights meeting amongst themselves.

Kimberly Tallandier: Is it proper for me to stay?

Dennis Michaels: You are more than welcome to stay. There may be another opportunity perhaps for you to speak again but the board wants to move on to the next item and revisit this at the end of the meeting. You're welcome to stay and perhaps you should but it is your decision.

Kimberly Tallandier: Okay so I will stay.

Mr. Guareño introduced the next item on the agenda, Gary and Yvette Martino, 150 New Main Street and 11 Hillside Avenue, Haverstraw, NY 10927. **26.60-1-21&20**

Amy Mele, 4 Laurel Road, New City: My name is Amy Mele and I'm the attorney for the applicants Gary and Yvette Martino. With me tonight is John Atzl from Atzl Nasher and Zigler. The Zoning Board already granted this variance a while ago but when we went

back to the Planning Board on this matter, it was pointed out that for some reason a year or so ago this was not referred to the County for GML. So we came back here tonight just for the purpose of going over the GML comments and hopefully reapproving the variance. Here's the problem, we received the GML on May 2, 2018 with 5 comments. We're fine with all except for number 4 which states, "The bulk table indicates there's a minimum landscaped area requirement of 20%. This department is of the opinion that this is a misrepresentation of the Mountain Protection Overlay District Requirements. Section 245.21.D(2)(a) states that 50% of the site shall remain in its natural state. Section 245.21.D(2)(b) states an ADDITIONAL 20% shall remain open landscaped area. Therefore, there is an overall open space requirement of the 70%. As Lot 2 has 0% of the lot is in its natural state and only 65% is landscaped, open space, a variance of both requirements is necessary and must be obtained." So they're basically saying we need to get additional variances for this. John and I were talking and looked at your code. There is nowhere in there that conflates those two provisions and requires 70% of open space landscape area. So while I was originally inclined to say we will re-notice and ask for the additional variances, in case we come back next month there is a supermajority, we could ask for that and say or the alternative and override.

Dennis Michaels: In your amended application, you can ask the ZBA to interpret that variance is not necessary based upon Ruben's testimony and that it's not applicable.

Amy Mele: I don't think we need to amend the application to ask for that because that's asking for the override.

Dennis Michaels: Well let's say the majority of the board doesn't agree with the interpretation that it's not a required variance, you should also ask for the variance and they will grant the variance if they're inclined. Ruben do you feel they do not need a variance for the Mountain Protection Overlay?

Ruben Berrios: Correct.

Dennis Michaels: So what I'm suggesting is you will amend the application to ask for the interpretation that you don't need a variance and if the ZBA agrees with you that complies with number 4. It's saying yes they applied for the variance and the ZBA feels you don't need it. Now if the ZBA doesn't agree with that interpretation then you also ask for the variance alternatively so they can grant you the variance if they're inclined.

Amy Mele: So submit a new application with the request for an interpretation?

Dennis Michaels: If the board does not agree with your suggestion and interpretation and they spoke with the building inspector and a variance is not necessary, you would ask alternatively for the variance to be granted.

Amy Mele: He's saying right now it's not necessary. So if he gives me that interpretation which he's giving right now, then why couldn't the board then say the variance is not required?

Dennis Michaels: Well maybe they can say that now.

John Atzl: They're adding up 20 % and 50%. In the code it doesn't say 70% it says %50% and 20%. Where we don't have the 20% we are requesting the variance. For the 50% we have 65% landscaped area which is over the 50% that doesn't require the variance.

Dennis Michaels: I think the way I'm going about it doesn't conflict with what your saying.

Amy Mele: I think we are both going in the same direction it's just unfortunately putting us off another month.

John Atzl: To me it doesn't require an override because it doesn't apply.

Dennis Michaels: It doesn't say the application for the variance should be submitted to the ZBA and allow the ZBA to review it and consider the variance is necessary but that a variance must be obtained. So you do need an override or the variance.

Amy Mele: So I will amend the application to request the variance that we don't think we need or alternatively an override of the County Planning Department's comment to number 4 which hopefully by next month you will have a super majority to give us at the next meeting.

Dennis Michaels: To be on the next meeting, how far in advanced does it need to be re-sent to the county? I say it shouldn't have to because you're amending it to comply.

Amy Mele: Just a new notice and another mailing will be needed.

Dennis Michaels: It does not need to go to the County Planning Department so Michelle how far in advance should the notices go to the neighbors and be published in the local paper.

Ruben Berrios: We will have it ready right away as soon as you bring it in.

Amy Mele: So is by the end of next week ok?

Michelle Ventura: Yes that will be ok.

Dennis Michaels: So you have to send the notices out 5 days before the Public hearing. So you would you like it 10 days before?

Michelle Ventura: Yes 10 days will give me plenty of time.

Amy Mele: We will have it to you by next week.

Michelle Ventura: Thank you.

Yvette Martino: What your saying is we don't have enough property when there's houses in Haverstraw that are even closer?

Dennis Michaels:I think the board was receptive to your application. The County Planning Department is saying you need a variance for this Mountain Protection Overlay zoning district requirement. It's essentially saying you need to have 70% of your land has to be untouched, open space.

Yvette Martino: But I live in the Village of Haverstraw so how do people have 70% of their land untouched?

Ruben Berrios: The difference is you're in the Mountain Protection Overlay so thats a different and specific zone.

Yvette Martino: So somebody in 9W is not in the Mountain Protection Overlay zone?

Ruben Berrios: No.

Yvette Martino: Oh ok I understand now.

Dennis Michaels: The application for Gary and Yvette Martino, 150 New Main Street and 11 Hillside Avenue will be held open and the Public Hearing will continue and remain open until the next meeting on June 14 at 7:30 pm here in the Village Hall.

Amy Mele: I will send a letter saying we are amending the application to ask for this variance and Michelle can send it to you for review before it gets sent out.

Dennis Michaels: Sounds good.

Mr. Jose Guareño introduced the next item on the agenda, PAG Investments, 217 Rte 9W, Haverstraw, NY 10927. **26.42-1-9**

Amy Mele, 4 Laurel Road, New City: My name is Amy Mele and if you recall we had brought the self storage facility to you on an informal basis. We are due to appear at the Planning Board I believe next week where they will no doubt refer us to you. But in the effort to save some time, I'm appearing tonight to ask that you set this application for a Public Hearing for June 14, 2018 on this matter so that we don't have to wait another month and initaly keep this process moving.

Dennis Micheals: So the Planning Board has issued it's Notice of Intention to be the Lead Agency under the State Environmental Quarter Review Act which is customary.

Deyanira Martinez: So Mr. Pesantez would like to replace the grass and gravel with pavers due to mess issues that come up when the weather is muggy and rainy.

Jose Guareño: Is it necessary to have it this size or can you compromise?

Jorge Pesantez: Yes I can compromise and continue with the lot lie of the house if you'd like. The original plan was to make it bigger because the space is small but if its easier to get the variance granted by making it smaller, I don't mind compromising.

Jose Guareño: Mr. Guareño asked Ruben since the applicant is willing to continue with the line of the house what would his new variance be?

Ruben Berrios: He would then need a variance of 25%.

Jose Guareño: Ok so we would like to make a site visit before our next meeting on June 14, 2018 at 6:30pm, is this ok?

Jorge Pesantez: Yes that is ok.

Ruben Berrios: Mr. Berrios explained to the applicant that he'll need to reach out to the board clerk Michelle to receive the notices that needs to be sent out to neighbors.

Deyanira Martinez: The neighbors need to be noticed incase they are in favor or against the project.

Jose Guareño entertained a motion to send the application 144 Clove Avenue to a Public Hearing for June 14, 2018 at 7:30pm.

RESOLUTION **24-2018**

Motion: Deyanira Martinez
Seconded by: Jose Hilario
Carried by: All

Jose Guareño re-introduced Kimberly Tallandier, 46 Hudson Avenue, Haverstraw, NY 10927. **26.52-1-21**

Kimberly Tallandier: Mrs. Tallandier introduced her husband Luis Tallandier to the board.

Jose Guareño: From what I gather, at your informal you had 2 proposals that demonstrated 2 different size decks surrounding the pool and we all compromised on the #2 option correct?

Kimberly Tallandier: Yes option two was the smaller deck option we all agreed to.

Ruben Berrios: Mr. Berrios asked if the public wanted to take a look at the plan to have a better understanding of where the deck will be located and the size.

Jose Guareño: Mr. Guareño explained to Mr. Carlevaro the applicant had two options for the deck. One would wrap their pool all around this way and one would just extending to up to here. After our input in our last months meeting, they compromised on the second option which was the smaller size deck because it was too close to the other property line.

Kimberly Tallandier: You can't even see it because I have a solid white fence.

Gil Carlevaro: I'm just afraid again because we have tremendous amount of water in my backyard. Is there any way maybe a Town agency or someone can investigate that?

Jose Guareño: The concern that you have is an existing issue.

Gil Carlevaro: I just don't want to exasperate it. Right now there's green grass.

Kimberly Tallandier: But there's green grass in front of my house too.

Gil Carlevaro: Yes there is but when you put this deck up, the green grass is going to die and there will just be mud which will increase the runoff.

Luis Tallandier: If there was a runoff it would go to the driveway in the back.

Gil Carlevaro: I would get it too because I'm below you and everything will run down.

Kimberly Tallandier: But the deck will and would have to be leveled. It will not pitch downwards.

Dennis Michaels: My suggestion it to refer to the Village Engineer Eve Mancuso to review the plan and determine whether or not the surface water runoff will increase. We will then find out whether or not the drainage will have to be addressed or not. Maybe she'll suggest a berm.

Deyanira Martinez: I think it's better to check with the Eve on this. We don't want you to start building and then a bigger issue comes of it.

Jose Guareño: Again this is an existing problem prior to any mention of the deck.

Jose Hilario: Do you think the deck will make it worse?

Gil Carlevaro: Yes. Before the Tallandiers bought their house, the house foot print was much smaller along with the property in-between both of ours. Now theres very limited green area. There was decks, garages, and porch additions and now there's no longer a place for the water to go except my property.

Kimberly Tallandier: Out of fairness, I have not changed the square footage of my house since I've purchased the home.

Gil Carlevaro: Everything from the back alley slopes downward towards Hudson Avenue.

Kimberly Tallandier: I have a water problem in my basement due to when they added the garage next door. I understand your concern but it's preexisting and if I do end up building the deck, I still have to solve my water problem which was originally there and it was never disclosed to me. I have to put drainage in my basement and hopefully If I'm gathering more water where your concerns are specifically, it might help you. I have to eventually do that anyways and it's my house. I just don't think that a deck will effect or exasperate your situation right now.

Gil Carlevaro: It's already bad and I'm afraid that by putting the deck in it will make it worse. If the Village Engineer goes by and looks at it and feels it won't make the issue worse then I won't have a problem. As long as we exchange phone numbers like you said and if it gets loud i'll just give you a call.

Kimberly Tallandier: So the Village Engineer will look at this plan and make a site visit to see if she thinks the water issue will get worse?

Jose Guareño: That is correct.

Dennis Michaels: So the board will keep this Public Hearing opened. So Michelle, send the site plan survey and any other submissions the applicant handed in to Eve Mancuso the Village Engineer. Ask her to report back to the Zoning Board whether or not the drainage plan is necessary in her opinion. If it is necessary, what does she recommend? It might be something as simple as a berm which is just raised ground that will direct the flow to the street.

Kimberly Tallandier: Well I could agree to the berm now. You're talking about raising the ground so it could slide the other way instead of it maybe sliding towards his house.

RESOLUTION **27-2018**

Motion by: Deyanira Martinez
Seconded by: Jose Hilario
Carried by: All

With no further business to be conducted by the board, Deyanira Martinez entertained a motion to adjourn the meeting.

RESOLUTION **28-2018**

Motion by: Jose Hilario
Seconded by: Jose Guareño
Carried by: All

The Clerk Typist to the Zoning Board is hereby authorized, directed and empowered to sign these Minutes, and file a copy thereof in the office of the Village Clerk: _____
Michelle Ventura, Clerk Typist