

The minutes of the Zoning Board of Appeals Meeting held on Tuesday November 9, 2021 beginning at 7:00 PM.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

Edwin Rivera (Chairman)-	PRESENT
Richard Santiago-	PRESENT
Jose Hilario-	PRESENT
Jose Guareno-	PRESENT
Tom Price-	PRESENT
Dennis Michaels-	PRESENT
Ruben Berrios-	PRESENT
Gisbeth Ramos (Secretary)-	PRESENT



Chairman- We'll start with 7 Eleven which is a continuation of a public hearing.

Mele- Hello everyone, my name is Amy Mele I'm counsel to Ira Emanuel representing the applicant for this matter. We were here last month, we gave a representation about why we believe the three variances that we are seeking including a parking variance, a set back variance and sign variances are appropriate in this matter. We asked for overrides of the Rockland County Department of Planning's comments to this board, comments 1,2,3,12,13,14,16.

Michaels- I'm sorry, can you repeat the overrides again please?

Mele- Again the comments are 1,2,3,12,13,14,16.

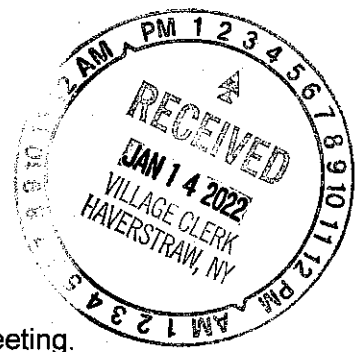
Michaels- Thank you. Now Amy, do you know how many times you guys have come to the board, approximately?

Mele- I want to say 3 or 4 times.

Michaels- Is there anyone here tonight, on the board that has never heard the presentation for the 7 Eleven convenience store and fuel sales? Is there anyone hearing of this for the first time?

Chairman- I believe everyone has heard it.

Michaels- So everyone has heard the presentation at least once?



Santiago- Yes

Michaels- How many have you seen Hilario?

Hilario- I saw the first two presentations, I wasn't here for the last meeting.

Michaels- Ok, so we are good to vote because not much has changed since the first presentation.

Mele- I believe the public hearing is still open. If so, I would like to add two things.

Michaels- Yes, the public hearing is still open. I was not inviting the public to talk yet, but I would ask those who spoke last time to please speak again for the benefit Mr. Hilario.

Mele- That's fine. I would just ask that you listen to the comments that are related to the Zoning Board, as the Planning Board public hearing was last night and the public was already given the opportunity to speak. I would also like to mention that since we were here last time, the Mayor indicated that the Village recognized that their sign laws are a bit restrictive and are in the process of changing their sign laws. As for the parking variance, Max Stach said he supports it, although I don't think he necessarily disagrees with Mr. Berrios's interpretation that the number under the code was correct, but he felt that the spaces under the canopy should be counted towards the total. That would be the basis for granting the parking variance. Thank you.

Chairman- I'll now invite the public to express their concerns or questions.

Garvey- Good evening everyone, I'm representing a tenant of 302 Westside Avenue which is an abutting property owner to this project. The variances that are being sought are not necessary. The sign variance that they are looking for is a substantial increase of the sign. Despite the fact, the law hasn't changed, they plan on changing, it is not for this board to anticipate a law change and granting a variance should it happen at all. The parking, again, there's no need for the increase of parking and the gas station itself is just that a gas station as nice as they want to try to make it look with a clock tower, it is still at the end of the day just a fuel station. I understand that the Village Board gave them a special permit last week, but again there's no need for a gas station, this is not a hardship. This property is valuable and can be used in any number of different ways. There's plenty of gas stations in the area, it is just not necessary and it is not necessary to grant these variances. Thank you for your time.

P. Pena- I'm the property owner of 302 Westside Avenue. Can you imagine waking in the morning to the smell of gas? The children? Also can you imagine the traffic that this is going to cause? Our representatives are supposed to preserve our safety because it is honestly very unsafe, having a gas station there.

Mcgullen- I lived at 173 Gurnee Avenue for my whole life and my concerns are the effect that it will have on the traffic. I think a convenience store is going to add to the ingestion of traffic, I

think it is a safety hazard. There's already a gas station and convenience store across the street so there'll be two at the same intersection. Thank you.

Montroy- Hello, I live at 285 Westside Avenue. My major concern is the ingress and egress. If you are coming out of this project onto Gurnee Avenue you can't make a left hand turn to go onto 9W. There's not enough room, especially a big truck. If you go up the road a tractor trailer truck will not have enough space to make the turn onto Westside Avenue. In the winter time we have cars and trucks that get stuck on the road so I'd love to know how you are going to make that work, thank you.

Chairman- Would anyone else like to speak?

R. Pena- Hello, I used to be a resident at 302 Westside Avenue. My concern is that there's already a high volume of traffic and putting a gas station is going to create a high volume of traffic. It is also a very dangerous intersection. I agree with the person who said that for bigger vehicles it is going to be more difficult to turn, especially in the winter and with the wide turns that they have to make. Also, there's no need for another gas station. There is already one down the street. Thank you.

Chairman- Anyone else? Does anyone on the board have any questions?

Michaels- Typically the applicant gets the last word, is there anything you would like to add

Amy? I know the main concern was the traffic, was there a traffic study done?

Mele- Yes there was a traffic study done, we have been in close contact with the Department of Transportation. We have to get permits from them after the approvals. The traffic issue all due respect was more in Planning Board purview, you guys are here looking at variances this evening. Whether or not there are enough gas stations, that's a legislator decision on behalf of the Village Board. It is an allowable use. Thank you.

Michaels- One last time, is there anyone else that would like to add something?

P. Pena- I would like to add, many years ago I was denied a project near here due to the traffic, but where has the traffic gone? No where it just grew and putting this will make it worse.

Chairman- I hear you, traffic is everywhere now. Remember that this board is only deciding on three variances that they did. The Planning Board already approved the site plan.

Michaels- The Planning Board did ask for a traffic study to be done and the applicant's engineer prepared a traffic impact study which was submitted to the Planning Board, village engineer and village planner. They have all reviewed it and found not anything objectifiable.

Chairman- Anyone else so that we can close the public hearing?



Michaels- If the board has no more questions, no further information you'd like, no more reports you'd like to see, you have the power to hire experts or consultants to advise you in any area you are not familiar with.

Chairman- My only concern was the traffic, but a traffic study was done.

Michaels- So the next step would be to close the public hearing.

Chairman- Would anyone like to make a motion to close the public hearing?

**RESOLUTION #36-2021:**

**Motion: GUARENO**

**Second: PRICE**



Michaels- What follows next can be done this evening or you can do it at a future meeting, you have 62 days within which to render a decision after you close a public hearing, which you just did. You can reserve the decision if you wish or can make a decision tonight.

Chairman- How does the board feel? Do you want to vote tonight?

Santiago- Yes

Guareno- Yes

Chairman- We'll vote tonight at the end of the meeting. Next is Carlos Urena for 13 Dowd Street.

Brigandi- Good evening everyone, I'm Anthony Brigandi I work over at the Phillips and Millman office. This is for a garage, we are seeking four variances. One is for minimal side yard, second is for maximum lot coverage, next is for height and last is for the separation of a dwelling and accessory building. Originally the plans show that the building was going to be 24 by 30 by 16. Since then we have taken in consideration your comments and have reduced it to 24 by 20 by 14. I went through the GML dated March 24th, 2021 and I don't believe we need any overrides. So we are here tonight just to talk about the actual variances since we don't need any overrides. I believe you guys asked for a rendering of the drawing, do you guys have that?

Guareno- Yes we do. Thank you.

Michaels- So you are confident you don't need any overrides?

Berrios- This picture is not correct.

Chairman- This needs to be corrected.

Chairman- Since this is a public hearing does anyone have any questions or concerns regarding 13 Dowd Street?

Montroy- I'm concerned about the run off. There was a rain storm last week and the water comes down right from that area down the gully and there's two catch stations by my house.

Berrios- They are required to catch all the running water.

Chairman- Would anyone like to make a motion to close the public hearing on 13 Dowd Street?

**RESOLUTION #37-2021:**

**Motion: SANTIAGO**

**Second: PRICE**



Chairman- Next is 44 Riverside Avenue.

Berrios- It's the same property owner but it is two separate applications.

Berkowitz- Hello I am the property owner. For 44 Riverside Avenue, at the moment it's a one story house and we would like to add a second story.

Chairman- You would also like to add a deck. Where is the deck going to be?

Berkowitz- On the second floor.

Chairman- Right now you have one bedroom, the kitchen and the bathroom. Now you are planning on having two bedrooms, two bathrooms and a kitchen, is that correct?

Berkowitz- Yes. These are not the final site plans. They are not signed.

Guareno- You think there'll be any changes to this?

Berkowitz- No, not in bedroom sizes or structure size.

Charman- Will there be chairs going to the porch?

Berkowitz- No, no stairs.

Berrios- Just so we are clear, the deck is only on the first floor, right?

Berkowitz- Yes, like a closed sunroom.

Guareno- Ruben, so they are only here for the proposed porch then.

Berrios- They need several variances, they are building with nonconforming bulk and need some side yard variances. The rear and the front are fine.

Chairman- Would anyone like to make a motion to open a public hearing?

**RESOLUTION #38-2021:**

**Motion: SANTIAGO**

**Second: PRICE**



Chairman- That was 44 Riverside avenue, now let's move onto 46 Riverside Avenue. Same owner?

Berkowitz- Yes. For this property we have a porch on the second floor, we would like to enclose it and put a small deck in the front. I don't see it on the plans now.

Chairman- Show me where it would go.

Berrios- You might need a variance.

Berkowitz- We can add it to our next set of plans.

Chairman- Is there a basement and do you have parking?

Berkowitz- There's no basement and I believe each house has two parking spots.

Chairman- We would like to do a site visit.

Berkowitz- Saturdays we can't go.

Berrios- You can just go to the property

Chairman- Would anyone like to make a motion to open a public hearing?

**RESOLUTION #39-2021:**

**Motion: HILARIO**

**Second: SANTIAGO**

Chairman- Thank you.

Berrios- When you have a chance I need you to bring me the new plans with the added deck in the front.

Chairman- Let's go back to Carlos Urena for 13 Dowd Street.

Michaels- The application is for 13 Dowd Street, applicants are Jose and Rosa Urena. One of you has to express how they are feeling in regards to whether they want to approve or deny the application, no one second the motion yet because then I'll guide whoever makes the motion.

Price- We've been dealing with this application for over a year and he has come in compliance with what we have asked and we've come to a good agreement and if the board seems fit I believe we can approve this.

Michaels- So you are voicing for a potential motion to approve, is that right?

Price- That is correct.

Michaels- You may adopt my legal opinion if you wish. You can modify it if you would like. Member Price your motion is to approve the application for the area variances for the property known as 13 Dowd Street. Apparently the owners are Jose and Rosa Urena, we have heard from Carlos Urena who has been representing them. You are approving the area variances that have been set forth on the site development plan surveys with the signatures and seals of Ryan A. Nasher, as a New York State licensed professional engineer and John R Atzl, as a New York State licensed surveyor. It consists of two sheets numbered A and B which was most recently revised on October 27, 2021. Sheet A of B includes a bulk table which sets forth the bulk regulations that are applicable to this site for the proposed use and occupancy and also sets forth the variances that are requested there from. Are those the area variances that you are motioning or potentially motioning to approve?

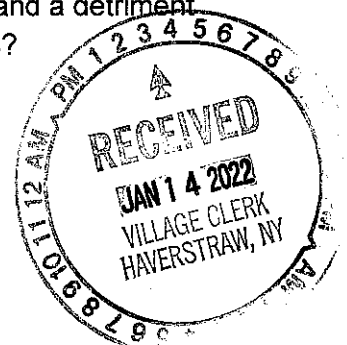
Price- Yes.

Michaels- Did you have any conditions that you wish to impose as part of your motion to approve?

Price- No.

Michaels- Based upon your decision to approve, in my legal opinion your motion to approve, I'd like to confirm that these are your findings. If it is not, then you'll tell me. Is it your finding that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of these area variances?

Price- Yes.



Michaels- Is it your finding that the benefits sought by the applicant cannot be achieved by some method feasible to the applicant to pursue other than by the granting of these area variances?

Price- Yes.

Michaels- Is it your finding that the requested area variances are not substantial?

Price- Yes

Michaels- Is it your finding that the proposed area variances will not have adverse effect or impact on the physical or environmental conditions of the neighborhood or district?

Price- Yes

Michaels- Is it your finding that although the alleged difficulty of the applicants is self created, that although you considered this factor but it was not sufficient in and of itself to make a motion to deny this application instead?

Price- Yes that is correct.

Michaels- Mr. Chairman we have a motion, if you agree with my legal opinion member Price, you can make a motion to approve as recited by legal counsel.

Price- I would like to make a motion as recited by legal counsel.

**RESOLUTION #40-2021:**

**Motion: PRICE**

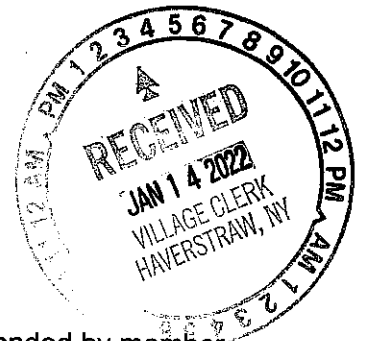
**Second: SANTIAGO**

Michaels- We have a motion by member Price with no conditions and seconded by member Santiago, so roll call Chairman.

Chairman- Roll call please.

**ROLL CALL:**

Edwin Rivera (Chairman)-	YES
Richard Santiago-	YES
Jose Hilario-	YES
Jose Guareno-	YES





Tom Price-

YES

Michaels- Mr. Urena you have been approved.

Chairman- We need to approve the variances.

Michaels- Well you need to make a decision, but you have 62 days, you don't have to decide right away. Did you have any legal questions for me?

Chairman- Yes, just one. Can we speak in private?

Michaels- Yes.

Brigandi- You guys have a goodnight. Thank you.

Chairman- Is anyone on the board in favor or against the application for 7 Eleven? José Guareno?

Guareno- My concerns were brought up by the public in terms of the traffic impact, but a study was done and given to the Planning Board, but we are only here to decide on the signage, the set back and the parking. We do take into consideration the concerns of the public if a project of this size, but unfortunately our decision is based on the variances needed. I don't have any concerns.

Michaels- Member Guareno, it sounds like you are in favor of this application and are inclined to make a motion to approve, is that accurate?

Guareno- Yes.

Michaels- I'm going to give you a legal opinion and you may adopt my legal opinion as you motion to approve. If I'm not accurately expressing how you feel, you can interrupt me or modify what I'm saying. Member Guareno, your motion is to approve the are variances requested as more specifically as set forth on the site plan that has been submitted by the applicant, this is for the 7 Eleven project indicated on the agenda as 197 Westside Avenue but is located at the intersection of Route 9W and Gurnee Avenue. It is on the north west corner. You are approving all the area variances set forth on the site plan that is under the signatures and seal of Zachery E. Chaplin, as a New York State licensed professional engineer and is most recently dated October 13, 2021, that is page C-4 entitled site plan. This includes several bulk tables entitled land use and zoning, parking requirements and signage requirements, which set forth the village and zoning regulations regarding those areas of zoning regulations and it also sets forth the applicable zoning regulations that we are talking about for this type of use and occupancy at this particular site at this zoning district for the variances requested there from. Is that correct member Guareno?



Guareno- That is correct.

Michaels- Is your motion including any special conditions? I did not hear anything discussed during the public hearing.

Guareno- No, none from us.

Michaels- Is your motion to approve the area variances application also including an aspect of your motion to override Rockland County Department's report to the Zoning Board of Appeals dated October 14, 2021 which was submitted to the Zoning Board of Appeals pursuant to New York State general municipal law sections 239 L & M, often referred to as the GML or GML report. Is the motion to override certain aspects of the GML report dated October 14, 2021?

Guareno- Yes.

Michaels- Especially is your motion including an override of the general disapproval and the applicant's requested overrides of comments 1,2,3,12,13,14 &16, is your motion for an override of those aspects of the County's GML report dated October 14,2021?

Guareno- Yes Dennis.

Michaels- And your reasons for those overrides, do you share the reasons as expressed by the representatives of the applicant either in writing or orally during the public hearing?

Guareno- Correct.

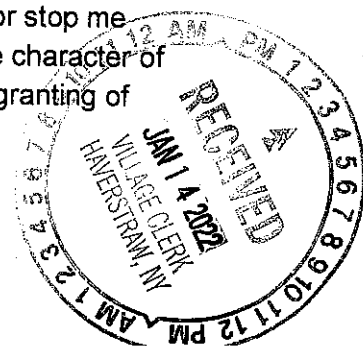
Michaels- All of the other comments from the County's GML report that are not being overridden, are you including those as conditions imposed as part of the approval for the area variances?

Guareno- We'll do the full report. We'll do an override of the full report.

Michaels- There's no need for that. The applicant has no problem with those comments. They have to satisfy them anyway or else the county won't issue the licenses they need. They need to comply with those comments whether or not you impose them as conditions.

Guareno- Ok.

Michaels- So, you are imposing those comments not being overridden as part of your motion. Again you are only overriding comments 1,2,3,12,13,14 & 16. I'm also going to ask you to confirm that these are your findings as part of your motion. If you need to modify or stop me please do. Is it your finding that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of these area variances?



Guareno- Yes.

Michaels- Is it your finding that the benefits sought by the applicant cannot be achieved by some method feasible to the applicant to pursue other than by the granting of these area variances?

Guareno- Yes.

Michaels- Is it your finding that the requested area variances are not substantial?

Guareno- Yes.

Michaels- Is it your finding that the proposed area variances will not have adverse effect or impact on the physical or environmental conditions of the neighborhood or district?

Guareno- Yes.

Michaels- Is it your finding that although the alleged difficulty of the applicants is self created, that although you considered this factor but it was not sufficient in and of itself to make a motion to deny this application instead?

Guareno- Yes

Michaels- Do you add these findings as additional reasons in support of the aspect of your motion that is overriding the County's GML report dated October 14, 2021 to the extent of overriding the disapproval and those specific comments discussed a few minutes ago. Do you add these as additional reasons supporting your GML override motion?

Guareno- Yes.

Michaels- Mr. Chairman we have a motion on the table.

Chairman- Would anyone like to second that motion?

**RESOLUTION #41-2021:**

**Motion: GUARENO**

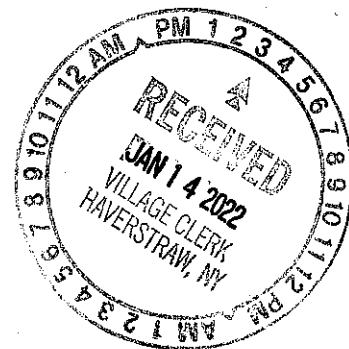
**Second: PRICE**

Chairman- Roll call please.

**ROLL CALL:**

Edwin Rivera (Chairman)-

YES



Richard Santiago-	YES
Jose Hilario-	YES
Jose Guareno-	YES
Tom Price-	YES

Mele- Thank you all for your time. Good night.

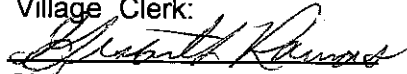
Chairman- Good night. Would anyone like to make a motion to adjourn the meeting?

**RESOLUTION:**

**Motion: PRICE**

**Second: SANTIAGO**

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

  
Gisbeth Ramos, Clerk Typist

