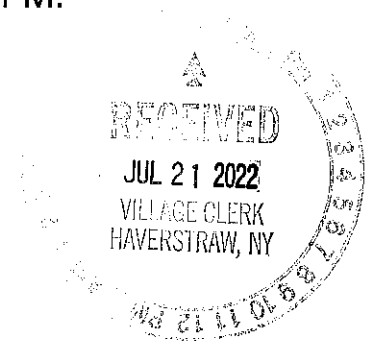


The Minutes of the Village of Haverstraw Zoning Board of Appeals Meeting on Thursday March 10, 2022 beginning at 7:00 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL :

- Jose Guareno (Chairman) Present
- Dennis Michaels (Asst. Village Attorney) Present
- Ruben Berrios (Building Inspector) Present
- Jose Hilario Excused
- Tom Price Excused
- Kathleen Porter Present
- Richard Santiago Present
- Ramon Soto Present
- Gisbeth Ramos (Clerk to the ZBA) Present



Chairman Guareno opened the meeting inviting the first applicant, 150 Clove Ave., to address the Board. Applicant asked to be moved down on the Agenda until their attorney arrived.

Chairman Guareno called on 254 Route 9W (McDonald's) to address the Board.

John Kolesar, attorney from Harris Beach PLLC located in White Plains, representing the applicant: Mr. Kolesar stated that the engineer on the project would be available when they have a Public Hearing so any engineering type questions the Board has would be answered at that time. As an overview, Mr. Kolesar explained to the Board that McDonald's was making improvements in order to alleviate traffic backups by adding another drive through lane. In order to do that some of the parking spaces had to be redesigned and they were before the Zoning Board to request area variances for the adjustment to the length of the parking spaces. Village Code specifies a minimum width of 10 feet and a minimum length of 20 ft. to provide room for standing areas and aisles. The aisle distance and separation for back to back spaces was expected to be 25 ft. The first area variance that they are asking for is for the parking spaces to be 10ft. X 18ft. rather than 10 X 20. The proposed parking stalls are actually wider than the existing stalls and the proposed dimensions are within standards set by various other agencies in the industry.

A Board member asked if all the parking spaces were to be changed or just certain spaces, pointing to an area on the map.

Mr. Kolesar stated that he believed it was only the spaces on "the right" but he could confirm that for the Board.

Richard Santiago stated that his concern was accommodations for emergency vehicles and being certain that there was room for them to get in there with the second drive through.

Dennis Michaels, Village Attorney: Mr. Michaels remarked to the Board that this project had already been through an extensive review by the Planning Board and this particular area of questioning was something the Planning Board covers. He also mentioned that the Planning Board had passed a Neg. Dec, which means that they have determined that there would be no potential environmental impacts. As part of that, emergency access had already been reviewed by the Village Engineer and the applicant would not be before the ZBA if those types of issues hadn't already been resolved.

Mr. Kolesar stated that at the Public Hearing he would be presenting the details of the benefits outweighing any potential drawbacks. Mr. Kolesar continued with his explanations of the variances they were seeking, moving on to the variance on the back to back spaces having to be 25 ft. He stated that they were proposing 18 ft. rather than the 25 ft. which would allow for the second driveway and alleviate traffic backing up onto Route 9W.

A Board member stated that he thinks the plan is great but, to Mr. Michael's, point, he doesn't think it will alleviate traffic.

Kathleen Porter asked if they had 4 ADA spots.

Mr. Kolesar responded that they did and as the plan progressed and the Planning Board gave them feedback there were changes made to the number of ADA spots along with the addition of the second driveway. They did realize that these changes resulted in more variances being needed. Mr. Kolesar continued to explain some of the changes that had been made due to Planning Board input and requirements.

Ms. Porter questioned the ADA spots further, using the plans before her to assess the parking spots.

Mr. Kolesar stated that the spaces she was referring to would not be strictly ADA spots in the final design. They were going to be "mobile order" spaces and the ADA spots might overlap in this area, but he would need to confirm that. Mr. Kolesar pointed out the specifics of the spaces, as he knew them to be, on the plans.

Chairman Guareno entertained a motion to set a Public Hearing for McDonald's on April 14, 2022 at 7:05 PM

RESOLUTION # 13 - 2022

Motion by: Richard Santiago

Seconded by: Ramon Soto

Motion Carries: All

Attorney Michaels instructed Gisbeth Ramos to send the application to the Rockland County Planning Department and to several other municipalities and agencies.

Chairman Guareno asked 57 Route 9W to present to the Board.

John Perkins, Tomkins Cove, Architect and representative for the applicant, Mr. Yang: Mr. Perkins informed the Board that they were presenting for review a proposal to add a second floor for additional office space. They don't have a large company but they do need a lot of warehousing and testing space. It's a difficult lot and they need a larger area to operate and move around in. They want to move their offices to the second floor and he pointed out the location of the staircase. The building would be extended on 3 sides to accommodate the new office space and there will be a shift to the second floor so everyone has more access to windows, daylight and fresh air, this was important to Mr. Yang. Mr. Perkins continued with a detailed explanation of the plans before the Board, including both the inside and outside of the building.

Kathleen Porter asked if the parking would accommodate the number of employees.

Mr. Perkins responded that the Planning Board had reviewed the parking situation with them and the plan met the necessary criteria for the number of employees in the building.

Eric Yang, representing the applicant: Mr. Yang explained that the company was relatively small with current employees numbering 6. He noted that they might be hiring more in the future but they would be local residents and would not require a vehicle. Mr. Yang added that

some of the current employees were Haverstraw residents as well, they currently use 5 spaces and on the side of the building they have gate access to another 4 or 5 spots. With the addition of the second floor they won't be adding employees but they needed additional space specifically for storage. Due to COVID they haven't been able to ship their product as quickly as in the past so they are storing more than previously and they need more space to do that.

Jose Guareno asked Inspector Berrios if this was primarily for a front yard variance. Inspector Berrios responded that was correct.

Chairman Guareno entertained a motion to set a Public Hearing on April 14, 2022 at 7:10 PM for the matter regarding 57 Route 9W.

RESOLUTION # 14 - 2022

Motion by: Richard Santiago

Seconded by: Kathleen Porter

Motion Carries: All

Attorney Michaels gave instructions to Ms. Ramos for what agencies needed to be noticed regarding the project and Public Hearing.

Chairman Guareno invited 150 Clove Ave. representatives to address the Board.

Frank Phillips, Phillips and Millman, representing the applicant, R&L Development Corp., on the matter of 150 Clove Ave: Mr. Phillips stated they were appearing before the Board for the second time and the proposal is for a 2 lot subdivision on the west side of Clove Ave, with a total parcel size of 9,810 sq. ft.. The applicant is seeking variances for the minimum lot width which is required to be 7,500 sq. ft. and the proposed Lot #1 has a size of 4,800 sq. ft. and Lot # 2 with a size of 5,010 sq. ft. Additional variances requested are for the minimum lot width requirement of 75 ft. and Lot # 1 is 48 and Lot # 2 is 53.84, the lot minimum requirement for the side is 1025 and they've proposed 1020, and the requirement for a maximum of 30 % coverage Lot #1 will be 40% and Lot # 2 will be 41%. The short form EAF has been submitted and this project is consistent in its conformity with the Village Master Plan. There are no critical environmental consequences to this subdivision, the Planning Board has declared themselves Lead Agency and they have indicated that this is an unlisted action and issued a Neg. Dec. Today the applicant is the Public Hearing and if they receive the variances they are requesting they would go back to the Planning Board for final

approval. Mr. Phillips explained in great detail the review and comments of the Planning Board and the changes the applicant intended to make to the property. He explained that, as to the 5 point test for the ZBA there is no evidence of any adverse effects on the environmental conditions, that there is no indication of any detrimental effect to any nearby properties, there is no alternative for getting a 2 lot subdivision, and they submit that the variances requested are not substantial in changing the nature of the neighborhood. Mr. Phillips also noted that he was joined tonight for the Public Hearing by Anthony Celentano, Engineer and Mr. Omelanezuk of R&L Development.

Dennis Michaels stated that the Public Hearing had not yet been formally opened and then asked Gisbeth Ramos if, to the best of her knowledge, all public notices had been properly complied with.

Ms. Ramos stated Yes.

Attorney Michaels proceeded to declare the Public Hearing officially open on the matter of 150 Clove Ave and the application for variances on the proposed 2 Lot subdivision. Mr. Michael also asked the applicant if there were items on the Rockland County Planning GML review that needed to be overridden. After discussion with Mr. Phillips, Mr. Michaels announced that in reference to the RC GML Review, dated February 16, 2022, the applicant was asking for overrides of comments #1 and # 2, and noted that the applicant would be complying with the remainder of the items.

Mr. Phillips explained that the GML comments to be overridden were in reference to the proposal being an undersized lot and there are other undersized lots existing in the neighborhood. Also, the lots could not be doubled if this was allowed and the increase in traffic is negligible.

Attorney Michaels stated the following for the record: The Board is considering a set of site development plans under the signature and seal of Anthony R Celentano, NYS licensed Engineer, the sheets enumerated d sheets 1 through 4. Sheet 1 is also under his seal as a NYS licensed land surveyor, dated Feb 5, 2022 and sheet 1 includes Bulk Tables, entitled Bulk Requirements, which sets forth applicable requirements and cited where they're from.

Hilario Rodriguez & Elba Cespedes, 163 Hudson Ave: Mr. Rodriguez explained that he was the neighbor in the back of this proposed project and they're concerned about how they will be affected by this. His sewer

line goes through their property and he believes they don't know where it is so when they dig they'll be disconnecting him from the sewer line.

Mr. Michaels reminded the Board that this was being addressed at the Planning Board level.

Mr. Phillips expressed to the group that they had retained Mr. Bertolino and he had submitted the proposal and the plans to him.

Mr. Rodriguez asked how long after they disconnect the sewer line will they be back in service.

The property owner stated that they could do it in stages so that there would be no interruptions and at most it would be 1 day where the service would be interrupted.

Mr. Michaels mentioned to the Rodriguez's that they would be getting a notice regarding the Public Hearing that would be held by the Planning Board.

Kathleen Porter asked for clarification of where the second house was going to be built. Several people pointed out on the plans where it would be.

Chairman Guareno asked the next applicant, 165 Gurnee Ave, to present to the Board.

Mr. Hochman, 165 Gurnee Ave: Mr. Hochman explained that there were 2 houses on the property and the house in the back had garages which they fixed up. He apologized because he didn't know he wasn't allowed to do that. Mr. Hochman stated that he wanted to get permits on the garages and he understood from Inspector Berrios that this was non-conforming. He's done some research and he believes that this non-conforming use is not accurate that this should be a change of use.

Jose Guareno explained the reason why this would be considered a non-conforming use and that the property was in an R1 Zone with an accessory building in the back and it had to be a conforming 2 family house. Any alteration to the property has to go for the necessary approvals of the Village. Mr. Hochman argued adamantly that that classification should only be on the house not on the garages.

Attorney Michaels intervened and explained to Mr. Hochman that he had a pre-existing non-conforming use in the accessory structure and that it is non-conforming as to the second floor with an existing residential apartment which is allowed to continue because it's been a grandfathered use. The first floor has been a garage and has always been a garage. The non-conforming is, again, the second floor, which is a residential apartment. Although that is not allowed under the Zoning Code he could continue it because of it being grandfathered (pre-existing non-conforming). However, there is a rule in the Village of Haverstraw Zoning Code, §245-31 (A) & (D), in particular paragraph D says "a pre-existing non-conforming use cannot be enlarged or extended". Mr. Michaels read from the section of the Code, quoting the specific line(s) pertaining to the change that Mr. Hochman had made to the building.

Mr. Hochman argued again that he had not enlarged or extended the second floor apartment by changing the garage portion.

Mr. Michaels explained to Mr. Hochman how his changes fit into the "enlarge or extend" criteria and he stated that it would require a variance from the Board which would be nearly impossible to get because the proposed plan did not meet the 5 criteria necessary for approval.

Mr. Hochman explained to the Board what his interpretation of "enlarge or extend" was and continued to argue his case for approval.

Mr. Michaels articulated further that the Code §245-31 Paragraph D Sub-paragraph 1 specifically stated the definition of "enlarge and extend" and he read directly from the Code.

Mr. Hochman continued to argue with Attorney Michaels and the Board.

Jose Guareno tried to further explain the situation and the reasons to Mr. Hochman.

Mr. Hochman insisted that he was only adding space for the second floor apartment and this should be a change of use. He also asked if he could use the back room in the garage for a laundry area and when told he had to go through the necessary procedures he insisted he wanted to know how the Board felt about that.

The Board expressed to Mr. Hochman that until they had the proper plans and application in front of them they could not have that discussion.

Discussion continued regarding whether a Public Hearing was warranted and whether Mr. Hochman was interested in continuing this process. Mr. Michaels also expressed that there were procedures that Mr. Hochman could take either the pursuit of a use variance or to continue with the request for an interpretation.

Mr. Hochman said he would not go further with this; he would take it out and follow up with Inspector Berrios.

The Board brought up the proposed subdivision of 150 Clove Ave. and discussed again where the house(s) were on the property and the various proposed plan for the property.

Attorney Michaels asked if there were any Board members inclined to deny the application on 150 Clove Ave. No one responded.

Mr. Michaels then asked if there was a Board member who was comfortable approving the application and he received an affirmative response from a Board member.

Mr. Michaels stated that in his legal opinion it would be procedurally appropriate for a member of the ZBA to make a motion to approve the application. He drafted the following for Board approval:

"Approval of all area variances that are depicted on the Bulk Tables that are entitled Bulk Requirements, set forth on sheets 1 through 4 of the Site Development Plan/Survey, as prepared by Anthony R. Celentano, licensed Engineer and most recently dated February 5, 2022. As an aspect of the motion to approve, there will be an override of the Rockland County Planning Department GML Review, dated February 16, 2022, to the extent of overriding the general disapproval in comments #1 and #2, for the reasons as orally expressed by Attorney Frank Philips during the Public Hearing. Compliance of all other comments in the GML Review, which are comments 3 through 9.2, is a condition of this approval. "

Jose Guareno stated that as a courtesy to the neighbors that they be informed of the site plan and the sewer situation.

As recited by legal Counsel
RESOLUTION # 15 - 2022

Motion by: Richard Santiago
Seconded by: Ramon Soto

Roll Call:

- Kathleen Porter Yes
- Richard Santiago Yes
- Ramon Soto Yes
- Jose Guareno Yes

Motion Carries: All

Chairman Guareno entertained a motion to close the Public Hearing on 150 Clove Ave.

RESOLUTION # 16 - 2022

Motion by: Richard Santiago
Seconded by: Ramon Soto
Motion Carries: All

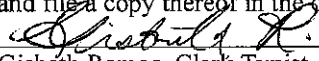
Chairman Guareno: With no further business to be conducted by the Board, the Chairman entertained a motion to adjourn the meeting.

RESOLUTION # 17 - 2022

Motion by: Richard Santiago
Seconded by: Ramon Soto
Motion Carries: All

Respectfully submitted by,
Judith Curcio

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

