

The Minutes of the Village of Haverstraw Zoning Board of Appeals Meeting on Thursday July 8, 2021 beginning at 7:00 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL :

- | | |
|--|---------|
| • Edwin Rivera (Chairman) | Absent |
| • Dennis Michaels (Asst. Village Attorney) | Present |
| • Ruben Berrios (Building Inspector) | Present |
| • Jose Guareno | Present |
| • Jose Hilario | Present |
| • Tom Price | Present |
| • Richard Santiago | Present |
| • Gisbeth Ramos (Clerk to the ZBA) | Present |



Attorney Michaels asked for a motion to appoint Jose Guareno as the Acting Chairman.

RESOLUTION # 26 - 2021

Motion by: Richard Santiago
Seconded by: Tom Price
Motion Carries: All

Acting Chairman Guareno announced that the Public Hearing for Popeye's Restaurant, 246 Route 9W, would be continuing.

Nicholas Ward-Willis on behalf of the applicant, Popeye's: Mr. Ward-Willis explained that they had appeared at the June ZBA meeting and the Public Hearing had been left open to consider the comments from the Rockland County Planning Department in their GML Review. After their appearance at the ZBA meeting they appeared before the Planning Board and received conditional approval for the site plan of the project and it was subject to receiving the variances from the ZBA. Mr. Ward-Willis continued to explain the 3 variances that the applicant was seeking:

1. A variance for maximum development coverage of 4.9%. The maximum permitted is 60%, the existing coverage is non-conforming at 78.8%, and the applicant is reducing it by 14% to 64.9%, which is still over the allowable percentage.

2. A 1 ft. variance so the applicant can install each of the 10 required off-street parking spaces with a minimum width of 9 ft., and the code requires 10 ft.
3. To permit 7 business signs; 2 menu board signs, 1 free standing sign and 4 building signs as shown in the plans, with a maximum sign area allowable of 60 square ft., and the proposal is an amount larger than that.

Mr. Ward-Willis also stated that he had submitted to the Board a letter explaining the comments they were requesting be overridden.

Attorney Michaels advised the Board of their legal right to override County GML Review comments and stated that Mr. Ward-Willis' letter gave the reasons for the requested overrides and what they can note as conditions of approval.

Mr. Ward-Willis explained to the Board the Comments they were requesting to be overridden and the reasons for their request.

1. Comment # 1: A denial of the sign variance and the applicant has submitted why they believe the signage is appropriate.
2. Comments # 2 & # 3: The County is saying the applicant needs to comply with comments from the County DOT. These are not normally submitted to these agencies so it therefore isn't a reason to deny it.
3. Comment # 4 is similar
4. Comment # 6: we've explained why we did not use pervious pavers
5. Comment # 8 states that they were not supplied with copies of the plans and they were
6. Comment # 9 – there is no special permit required for this project

Attorney Michaels added that in reference to the proposed plans being sent to various agencies, the plans have been submitted but the County GML Review Report states that a review **MUST** be completed by these agencies. The Village Boards have no control over these outside agencies and the Comment should read that the plans be submitted to DOT for review. Similarly the reference to West Haverstraw is the same issue. We, the Village, cannot force other agencies or municipalities to review what we've sent them. Mr. Michaels believes that the County Planning Board likely intended for these other agencies to be sent the plans for consideration and comments not **MUST**.

Jose Guareno asked if anyone in the public wanted to address the Board regarding the proposed Popeye's Restaurant.

Gil Carlevaro, speaking as a Trustee of the Village Board, stated that the Village Board was looking to address the zoning code along the highway district because it was outdated and the Village Board is OK with the proposed Popeye's plan.

With no further comments or questions from the Board or the Public, Jose Guareno asked Attorney Michaels to prepare an approval on the variances for the project.

Jose Guareno entertained a motion to close the Public Hearing.

RESOLUTION # 27(A) - 2021

Motion by: Jose Hilario

Seconded by: Tom Price

Motion Carries: All

Attorney Michaels prepared the following:

"Approve the application for the area variances as requested by Popeye's Restaurant, located at 246 North Route 9W, SBL 26.42-2-2, as they are set forth and depicted on the architectural, engineering and surveyor drawings and plans.

1. Boundary & Topographic Survey, 1 sheet, prepared by Dynamic Engineering LLC and dated March 10, 2021.
2. Engineering drawings, 12 sheets, under the signature and seal of Joshua Sewald PE, NYS licensed and professional engineer, most recently dated and last revised June 10, 2021. Enumerated sheets #1 through Sheet #12.
3. Architectural drawings, 4 sheets, under the signature and seal of Robert Anthony Grimaldi, NYS registered Architect, dated April 19, 2021, enumerated PB-1 through PB-5.

Approval also includes an override of the Rockland County Planning Dept. GML Review Report dated June 8, 2021 Comments #'s 1,2,3,4,6,7,8 and 9 in addition to the general disapproval and Comments #5, 10 and 11 are conditions of the approval. The reasons for the overrides are as orally stated by the attorney for the applicant, Nicholas Ward-Willis, and also as set forth in Mr. Ward-Wills' letter to the Board dated June 28, 2021."

As recited by legal counsel

RESOLUTION # 27(B) - 2021

Motion by: Tom Price

Attorney Michaels asked Mr. Price for confirmation of the following findings:

- That 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 this variance(s)
- That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance(s)
- That the requested area variance(s) is not substantial
- That the proposed area variance(s) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
- That the alleged difficulty may be self-created, and although this fact has been considered, it was not in and of itself enough to make a motion to deny this application
- And these are additional reasons to override the County GML Review Report comments

Tom Price responded affirmatively on all.

Seconded by: Richard Santiago

Roll Call:

Jose Hilario	Yes
Jose Guareno	Yes
Richard Santiago	Yes
Tom Price	Yes

Motion Carries: All

Acting Chairman Jose Guareno asked the applicant for 85 New Main Street to come forward and address the Board.

Frank Phillips, Attorney from Phillips and Millman, representing the applicant, County of Rockland Rental/Dan Freeman: Mr. Phillips noted that this was their 11th appearance before various Village Boards. The proposed project is for an office and 6 apartments, approximately 3,246 sq. ft. The text amendment necessary for the project was received on Dec. 8, 2020, the Village Board then approved a Special Use Permit and the Planning Board has granted site plan approval subject to receiving variance approval from ZBA. They are seeking a parking variance for 10

spots as they currently have 5. . There is parking available across the street on New Main, along Depot Place there are several available street spots as well as parking along Hudson Ave. Also for consideration is that the commercial area on the ground floor will be closed on weekends and that will free up residential spots.

Tom Price asked about the ownership of the parking on New Main St.

Dan Freeman responded that the Village owns the area in question and that it will be paved and striped in the future.

Jose Guareno asked if there were any members of the public that wanted to ask questions or express concerns.

Gil Carlevaro, 43 Leonard St: Mr. Carlevaro stated that he was there as a private citizen not a Trustee and he stated that he believed this was a good project for the Village.

With no further questions or concerns from the public or the Board, Acting Chairman Guareno entertained a motion to close the Public Hearing.

RESOLUTION # 28 - 2021

Motion by: Richard Santiago

Seconded by: Tom Price

Motion Carries: All

Jose Guareno invited the applicant, Carlos Urena, for 13 Dowd Street to address the Board.

Frank Phillips, Phillips & Millman attorneys, representing Mr. Urena: Mr. Phillips explained to the Board that he was retained only last month by Mr. Urena and although he was aware of some of the variances being sought and the issues surrounding them he was asking to continue to hold the Public Hearing open so that he could properly get the plans adjusted because he has spoken to his client and they are looking to scale down the proposed garage. Mr. Phillips mentioned that his understanding was that the County had submitted comments for their GML review that were addressed but the plans will reduce the size of the project and he will be working with Atzl Nasher & Zigler to make this happen.

Jose Guareno noted that there were size issues with the project and they had suggested several ideas to the applicant as to a compromise.

Unfortunately the Board came to the conclusion that to be an accessory building the height on the proposed project was enormous in comparison to the house. The ZBA has proposed ideas but the applicant doesn't seem to want to pursue any other options but his original plan.

Mr. Phillips responded that the applicant has agreed to make adjustments and that would be what they were working towards.

Jose Guareno and Attorney Michaels stated that the Public Hearing regarding 13 Dowd Street, applicant Carlos & Rosa Urena, for an accessory garage seeking area variances would remain open until August 12, 2021 at 7:00 PM.

Jose Guareno asked the applicants for 2 Feeney Place to come forward.

Attorney Michaels asked for a motion to open the Public Hearing regarding area variances for 2 Feeney Place for the addition of a second floor.

RESOLUTION # 29(A) - 2021

Motion by: Tom Price

Seconded by: Jose Hilario

Motion Carries: All

Jose Guareno asked if anyone from the public wished to make any comments, ask any questions etc.

Nobody from the public responded.

Inspector Berrios informed the Board that the applicant was seeking a minimal variance of 10 inches on the side yard.

Dustin Smith, homeowner of 2 Feeney Place: Mr. Smith stated to the Board that he would be delivering the signed and sealed blueprints to the Building Inspector the next day and that he was still working with contractors for prices for the addition. He would be required to have 15 feet and based on the plans he had 14 ft. 4 inches.

Jose Guareno entertained a motion to close the Public Hearing.

RESOLUTION # 29(B) - 2021

Motion by: Tom Price

Seconded by: Jose Hilario

Motion Carries: All

Acting Chairman Guareno called for the applicant of 48 Riverside Ave. to address the Board.

Attorney Michaels announced that the application for 48 Riverside Ave. was for seeking variances for the side yard, total both side yards and for building with non-conforming bulk.

Jose Guareno entertained a motion to open the Public Hearing on 48 Riverside Ave.

RESOLUTION # 30(A) - 2021

Motion by: Tom Price

Seconded by: Jose Hilario

Motion Carries: All

Representative (name unintelligible) from Jorge Lopez, Architect addressed the Board: She informed the Board that they were seeking a side yard variance and area coverage variance because they are adding a second floor addition.

Jose Guareno mentioned to the applicant that there was some concern about the use of the second floor.

The applicant rep responded that it would remain a single family residence and they were adding more livable space.

Tom Price asked if there would be a separate second floor entrance.

The rep responded that they were in the process of adjusting the entrance for access from the second floor and there would be second floor access from the inside of the house.

When asked by Jose Guareno if the Board had any further questions or concerns Board Member Price asked pointedly if he was looking at 3 entrances on the plans.

The rep responded that yes, there were 3 because the applicant was trying to follow the grade.

Inspector Berrios interjected that the applicant had to build it as a 1 family residence and the interior had to be all connecting.

Jose Guareno asked where the existing kitchen was and if there would be 2 kitchens. He also mentioned that the plans showed 1 full bathroom and 2 half baths.

The rep responded by pointing out where the kitchen was and stating that the existing kitchen would be removed, also pointing out these areas on the plans.

Richard Santiago noted that he was concerned about the 3 entrances and Tom Price noted that on paper it looked like a 2 family residence.

The representative assured the Board that the family just wanted to have more livable space but she would make a note of the concern and let Mr. Lopez know.

Jose Guareno asked anyone with comments or concerns to come forward. Nobody came forward so the Acting Chairman entertained a motion to close the Public Hearing.

RESOLUTION # 30(B) - 2021

Motion by: Tom Price

Seconded by: Jose Hilario

Motion Carries: All

With no further discussions or objections from the Board and with their indication of approval regarding the various projects and presentations Attorney Michaels prepared the following for the Board:

“Approve the proposed application for the property located at 85 New Main St, the applicant County Rockland LLC, seeking area variance for the required minimum off street parking spaces. Fifteen spaces are required and only 5 are proposed with a need for a 10 space variance. The project, as depicted and set forth in the plans, 1 sheet enumerated 1 of 1, under the signature and seal of Ryan A Nasher, NYS licensed Engineer and John R. Atzl, NYS licensed Land Surveyor, most recently dated April 14, 2021 and Architectural drawings, 3 sheets, enumerated A1 through A3, under the signature and seal of Jorge Lopez, NYS registered Architect, most recently dated January 15, 2019 on sheet A1 and dated October 19, 2020 on sheet A2, and sheet A3 most recently dated April 14, 2021.”

As recited by legal counsel

RESOLUTION # 31(A) - 2021

Motion by: Richard Santiago

Attorney Michaels asked Mr. Santiago for confirmation of the following findings:

- That 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 this area variance
- That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance
- That the requested area variance is not substantial
- That the proposed area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
- That the alleged difficulty may be self-created, and although this fact has been considered, it was not in and of itself enough to make a motion to deny this application

Richard Santiago responded affirmatively on all.

Seconded by: Tom Price

Roll Call

Jose Hilario	Yes
Jose Guareno	Yes
Richard Santiago	Yes
Tom Price	Yes

Motion Carries: All

“Approve the application for an area variance for 2 Feeney Place as depicted and set forth on various drawings and plans submitted by the applicant, Dustin Smith. Two sheets authored by Robert A. Lenahan, Architect in Greenwood Lake, enumerated A003.0 and A001.00, dated May 24, 2021 and a Survey under the signature of Anthony R. Celentano, NYS licensed Land Surveyor, dated October 3, 2005.”

As recited by legal counsel
RESOLUTION # 31(B) - 2021

Motion by: Jose Hilario

Attorney Michaels asked Mr. Hilario for confirmation of the following findings:

- That 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 this area variance
- That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance
- That the requested area variance is not substantial
- That the proposed area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
- That the alleged difficulty may be self-created, and although this fact has been considered, it was not in and of itself enough to make a motion to deny this application

Jose Hilario responded affirmatively on all.

Seconded by: Tom Price

Roll Call

Jose Hilario	Yes
Jose Guareno	Yes
Richard Santiago	Yes
Tom Price	Yes

Motion Carries: All

“Approve the area variances on 48 Riverside Ave. as set forth and depicted in the one sheet document under the signature of Jorge L. Lopez, NYS registered Architect, entitled Proposed Survey enumerated A-S, dated March 24, 2021 with a bulk table depicted on that sheet with the area variances requested. Also in accordance with submitted drawings and plans, 2 sheets, enumerated A-1 & A-3, under the signature and seal of Jorge L. Lopez, dated March 24, 2021 and a separate Survey indicated as drafted by Howard Weeden, licensed Land Surveyor, and dated July 15, 2010.”

As recited by legal counsel

RESOLUTION # 31(C) - 2021

Motion by: Richard Santiago

Attorney Michaels asked Mr. Santiago for confirmation of the following findings:

- That 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 these area variances
- That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than these area variances
- That the requested area variances are not substantial
- That the proposed area variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
- That the alleged difficulty may be self-created, and although this fact has been considered, it was not in and of itself enough to make a motion to deny this application

Richard Santiago responded affirmatively on all.

Seconded by: Tom Price

Roll Call

Jose Hilario	Yes
Jose Guareno	Yes
Richard Santiago	Yes
Tom Price	Yes

Motion Carries: All

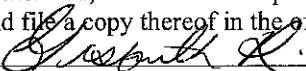
Acting Chairman Guareno entertained a motion to adjourn the meeting.

RESOLUTION # 31(D) - 2021

Motion by: Richard Santiago
 Seconded by: Jose Hilario
 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

