

APPROVED: 3/15/2010

**MINUTES OF THE
CONSOLIDATED ZONING BOARD OF APPEALS
OF THE
TOWN OF HIGHLANDS AND VILLAGE OF HIGHLAND FALLS
FEBRUARY 16, 2010**

A regular meeting of the Zoning Board of Appeals was held in the Court Room, Town Hall, Highland Falls, New York, on Monday, February 16, 2010, at 7:00 P. M.

THERE WERE PRESENT:

Board Members:

David Weyant, Chairman
Tim Donnery
Jack Jannarone
Tim Doherty
Ralph Montellese – Arrived 7:24 P. M.

Absent

Tony Galu
Ray Devereaux

Alyse Terhune, Attorney, (Jacobowitz & Gubits, LLP)

ALSO PRESENT:

John Hager, Building Inspector, Tina and Daniel Norton, Robert Munderville, John Giordano, John Steinmetz, and Patrick Kelly.

The meeting was called to order by the Chairman, at 7:00 P. M., with the Pledge to the Flag. It was noted that a quorum was present.

MR. WEYANT: The first item on the agenda is to approve the Minutes for January 19, 2010.

A motion was made to approve the January 19, 2010 Minutes.

Motion: Mr. Donnery Seconded: Mr. Doherty Approved

MR. WEYANT: Mr. and Mrs. Norton, please come forward. Gentlemen, I sent out to you with your packet with the Minutes a revision that Mr. and Mrs. Norton have done which, hopefully, will change the aspect of their variance application from three (3) to one (1) because they are going to put up an accessory structure rather than a garage. You saw on the map that it has been moved from where we were originally talking about. We still need a side yard variance of three (3) feet where twenty is required. Right, John?

MR. HAGER: You are down to one (1) variance.

MR. WEYANT: We are down to one (1) variance, and you all should have the new drawing.

MR. NORTON: It seems like for safety reasons, the bottom part was not going to work out. The main purpose of the structure is to store and repair an antique car. We opted to put it on the top. There is a driveway that goes up there. It is not our driveway, but the neighbor gives us access. If the time comes when they no longer give us access, we understand that it is a shed. That is why we are putting in a shed versus a garage. It will have big enough doors so that we can store the car and work on it and have access to bring it in and out. As for the position, I tried to line it up with the house so that it would look nice. I kept it far enough away so that we will not have an issue with the fire code if we ever want to add to our deck, which is the reason why I positioned it where I did. To the rear is literally another flat stone wall cut out of rock. The neighbor beyond us is above us and set back another 20 feet. There is nobody really over in that area.

MR. JANNARONE: Question. Since this is not what was advertised and sent to the neighbors, do they have to re-notify the neighbors and go through that process?

MS. TERHUNE: No. I talked about that with Mr. Hager, and we determined that initially he was asking for a side yard variance, so anyone that was interested or concerned about a side yard variance would have come out. He no longer needs the rear yard or the front yard variances so that it is not applicable.

MR. DONNERY: We had nobody at all for either one of the Public Hearings.

MR. WEYANT: No, we did not.

MR. JANNARONE: I am just concerned that because this is somewhere else, someone might have come out from the woodwork, and I don't want them to get hung up.

MR. WEYANT: We don't want to get hung up on the mechanics of going through this.

MS. TERHUNE: As I told the Building Inspector, it is my opinion that this does not need to be re-noticed. It was noticed for a side yard and a front yard variance and no one came out for either.

MR. DOHERTY: That is understandable.

MR. WEYANT: Any further discussion, Gentlemen?

MR. DOHERTY: I find this to be much more acceptable than having it down on the road.

MR. JANNARONE: I can go with this.

MS. TERHUNE: I would note that we are looking at a 17 foot side yard variance from 20 to three (3).

MR. JANNARONE: For the record, what is on the other side?

MR. NORTON: To the side yard? The neighbor's property – their house is roughly 300 feet away from us, a huge empty area that was dug out and is basically a driveway for them.

A motion was made to approve a side yard variance of 17 feet for this applicant.

**Motion: Mr. Doherty Seconded: Mr. Jannarone Approved
with the following Roll Call Vote:**

Mr. Doherty	-	Aye
Mr. Donnery	-	Aye
Mr. Jannarone	-	Aye
Mr. Weyant	-	Aye
Mr. Devereaux	-	Absent
Mr. Galu	-	Absent
Mr. Montellese	-	Absent

MR. WEYANT: Your variance request has been approved. You will get something in writing from us. The Building Inspector will help you proceed to the next step.

MR. NORTON: Thank you.

MR. WEYANT: Gentlemen, we have John Giordano applying for variances at 142 Main Street, Highland Falls. He was here at our last meeting to discuss what he was doing with the sign and we set a Public Hearing tonight for this.

At 7:05 P. M., the Public Hearing was opened.

MR. WEYANT: Mr. Giordano, please hold up your right hand. Do you solemnly swear that the information provided herein to be accurate and true to the best of your ability?

MR. GIORDANO: I do.

MR. WEYANT: We have a Notice of Publication in the News of the Highlands which was published ten days prior to tonight's meeting. We have an Affidavit of Mailing to the property owners and an Affidavit of Posting of Signage.

MR. GIORDANO: We want to put a new sign in the front of the building. We are leaving the existing base, making it a little larger. We want to put a larger sign up with four (4) tenants. I am not sure of the variances.

MR. WEYANT: Let's go over them. By your application we have a front yard variance which our zoning requires a 20 foot setback for signs. You have four (4) feet, and you need a 16 foot variance. We have another one which is Section 240-51B3.

Mr. Weyant - **Aye**
Mr. Devereaux - **Absent**
Mr. Galu - **Absent**
Mr. Montellese - **Absent**

MR. WEYANT: We have approved these variances and you will receive something in writing from us and go from there.

MR. GIORDANO: Thank you.

MR. WEYANT: Mr. Munderville, 24 Roe Avenue, Highland Falls, NY, for a variance for a side yard setback to construct an addition to his home. We talked about this at our last meeting and set a Public Hearing for tonight.

At 7:11 P. M., the Public Hearing was opened.

MR. WEYANT: Mr. Munderville, please hold up your right hand. Do you solemnly swear that the information provided herein to be accurate and true to the best of your ability?

MR. MUNDERVILLE: Yes, Sir.

MR. WEYANT: We have a Notice of Publication in the News of the Highlands which was published ten days prior to tonight's meeting. We have an Affidavit of Mailing to the property owners and an Affidavit of Posting of Signage. Please review with the Board what you are doing.

MR. MUNDERVILLE: He presented the plans showing the area. I am putting a one car garage on the side of my house connected straight in the driveway where the garage is going to be. Drawing #1 is the front, Drawing #2 is the side view, and Drawing#3 is the back. It will align and carry across to the back of the garage. I will end up with 3 feet 3 inches off my property line to the front corner of the garage. If you scale this, it looks like it is about 5 or 6 feet to the back. As you go back, I have more room. It is straight forward.

MR. WEYANT: Is there anyone in the audience that would like to speak.

MR. JOHN STEINMETZ, 4 Oak Avenue, Highland Falls. I would like to see the plans. What is the definition of a garage?

MR. WEYANT: You are asking for the Zoning definition of a garage.

MS. TERHUNE: From the Highland Falls Zoning Code, Section 240-4 – Garage, Private: “An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein.” It is a private garage.

MR. MUNDERVILLE: It is a private garage. There are pictures on the next page. That is what it will look like when you pull in the driveway. It is a one car garage.

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MR. STEINMETZ: What is the definition of a side yard? In your case there are two (2) front yards.

MR. MUNDERVILLE: I am on two streets Berry and Roe.

MR. DOHERTY: We discussed this with reference to the Bryants. We broached on the subject of what is a side yard and what is a front yard.

MR. DONNERY: The front yard is the address street.

MR. MUNDERVILLE: That is correct.

MS. TERHUNE: From the Highland Falls Zoning Code, Section 240-4 – Yard, Side: “An open, unoccupied space on the same lot with a building, situated between the nearest roofed portion of the building or of any accessory building and the side lot line of the lot, and extending through from the front yard, or from the front lot line where no front yard exists, to the rear yard or to the rear lot line where no rear yard exists.”

MR. WEYANT: Let the record note that Mr. Steinmetz read the definition of a side yard. I believe that the variance that is being applied for is correct by the maps and by the architect.

MR. HAGER: It also defines that if it is not a front yard and it is not a rear yard, it is a side yard.

MS. TERHUNE: It definitely is not a front or a rear.

MR. WEYANT: Any further comment, John?

MR. HAGER: From the Highland Falls Zoning Code, Section 240-4 – Lot Line: “Any boundary of a lot. Any lot line not a rear lot line nor a front lot line shall be deemed a side lot line.”

MR. STEINMENTZ: Which makes sense.

MR. WEYANT: Hearing no other discussion from the audience, I would ask that the Public Hearing be closed.

At 7:18 P. M., a motion was made to close the Public Hearing.

Motion: Mr. Doherty Seconded: Mr. Donnery Approved

MR. WEYANT: Any further discussion, Gentlemen?

MR. JANNARONE: I think the person most impacted would be the person on the side and he is not here tonight.

MR. MUNDERVILLE: He is good with the plan.

Zoning Board of Appeals – Outline of Presentation for February 15, 2010.

437 Main Street

- 5,005 sf
- Present use of property is garage/storage
- Intended use of property is Business (Bank)
- Proposed Use would have 6-8 employees (not all of these would be full time)

Zoning: B1 “Village Business”

- Requesting a Hardship – Per code for B1, need total of 33 off-street parking spaces (1 per 150 sf) - presently have 3 off-street parking spaces, thus lacking 30 off-street spaces.
- The lack of off-street parking is similar to many other businesses located on Main Street and within the B1 district.
- Future users will park at meters on the street, and will bank/shop/eat all on Main Street. Also, the future users have an opportunity to park and walk from the visitors lot across street or walk/bike from the academy. Thus, our proposed use will provide an added benefit to the goals of the overall business district and will replace a dilapidated structure with one that is new and serves the purposes of the business district.
- An additional metered space will be gained on Main Street, by removing the existing curb cut, presently serving the garage.
- Based on the above stated information, we kindly ask that this variance be granted.

MR. WEYANT: That gives you an idea of the parking variance itself and why he has to come to us because he obviously cannot have 33 spaces there.

Mr. Montellese arrived and was welcomed by the Board.

MR. MONTELLESE: Thank you.

MR. WEYANT: We are on the proposed Navy Federal Credit Union building, 437 Main Street, Highland Falls, NY.

MR. DONNERY: Does he tell you how many employees will be working there?

MR. HAGER: The email mentions 6-8, not all of them full time.

MR. DONNERY: Therefore he needs 6-8 parking spaces for his employees.

MR. HAGER: According to the Zoning Code he needs 33 spots.

MR. WEYANT: Whether employees or general public.

MR. HAGER: There are a couple of factors. One of which is that we have this special parking district and depending how you interpret the definition of the district, which needs to be redefined, because things have changed. The monuments they mention in the Code reference Lady Cliff College, which does not exist anymore. It is difficult to tell exactly what the limits of that parking district are. They are not that far out of the parking district that exempts businesses like this one even requiring off street parking. The other is that it is very consistent with the rest of the businesses on Main Street.

MR. JANNARONE: This parking district is new to me.

MR. HAGER: In the Code Book it references a metes and bounds of a district that specifically exempts the parking requirements and Zoning Code for commercial and residential on Main Street. It is clearly defined from Catherine Street northerly, both sides of Main Street. The problem is that it references the first entrance to Lady Cliff College whatever that means. I don't know exactly where that northern entrance is, whether it is at Purple Heart Memorial Drive or further north at Alyward. If it is Alyward, then this property is only about 150 – 200 feet out of the district. But it is, nonetheless, out of the district.

MR. WEYANT: We do not have any representatives here tonight because of the weather situation.

MR. HAGER: Mr. Bardoun is available by cell phone, if you want to give him a call.

MR. WEYANT: My question to the Board is do you want to set the Public Hearing for our next meeting and go through that, or do you want to have him here first and postpone the Public Hearing to another month.

MR. DONNERY: I have no problem with opening the Public Hearing because we do not have to make our decision next month.

MR. WEYANT: We do not have to make a decision.

MR. JANNARONE: That would just delay it another month.

MR. WEYANT: He does have to go to the Village Planning Board, which is meeting next week.

MR. DONNERY: I would love to see something done with that building.

MR. WEYANT: I am going to set a Public Hearing for the Navy Federal Credit Union's application for a parking variance for March 15, 2010. John, if you will notify them of that and the mailings and the postings.

MR. HAGER: They will be very happy with that decision saving them another trip here.

MR. DONNERY: John, the parking lot across from the church, is that filled up most of the day? That will probably be for their employees.

MR. HAGER: On a day like today when there are a lot of snow problems, it is filled. But I would say from my observation, I have not studied it, but I don't think that lot is usually full at all.

MR. DOHERTY: I would agree with John.

MR. WEYANT: I would agree, also.

MR. HAGER: The lot behind this building is usually packed. But that lot up there, other than church or snow, usually has plenty of spots available. You have to remember that you have the perpendicular parking there rather than the parallel, so there are a lot more spaces available up there than on this part of Main Street.

MR. MONTELLESE: Twice a day that lot is frequently used by employees of West Point Tours. From 7:00 A. M. to 9:30 A. M., and again from 1:00 – 3:00 P. M. for school transport. We have about 20 people. Lack of parking is a major problem on Main Street.

MR. JANNARONE: The special parking district is in this book?

MS. TERHUNE: It is in the Village of Highland Falls Zoning Code, Section 240-43, Footnote 8.

MR. HAGER: 112 Main Street - the numbers have changed. Not only do we have the reference to Lady Cliff's gate that I am not certain about, and I am not sure what direction they are coming from. I have issued a memo to the Village Board to clarify this.

MR. DOHERTY: I was at the last meeting. They are going to address it.

MR. WEYANT: We will have this Public Hearing at our March 15 meeting and get further information.

MR. JANNARONE: If they are exempt, it is not a problem.

MR. HAGER: I don't think they are. I think they are either very close to being just outside of that district or they are outside of the district by 400 – 500 feet, depending on the northern boundary. It is pretty clear they are not in the district. They would not be asking for a variance if they were.

MR. WEYANT: Thank you, John for bringing us up to speed.

MR. HAGER: I will get back to them and let them know what the requirements are for posting and mailing. They will be presenting to the Village Planning Board on Thursday, February 25, 2010, if anyone is interested in attending.

MR. WEYANT: For the next item on the agenda, I had asked Holly Gokey, who is Town Board Member and Liaison for this Board, to come tonight to review with us what we discussed at our last meeting on the proposed zoning changes. Copies were put in Board Member's boxes. She was unable to come, due to the weather.

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Basically, it is changing the zoning so that additional ratables can come to the Town of Highlands, which is what we need. It includes adding to Corbin Hill and the garden apartments around the Holiday Inn. I don't see a particular problem with this, but wanted to have this Board know about it. The Town Board will be holding a Public Hearing. It was noticed in the News of the Highlands.

I have no further business.

At 7:38 P. M., a motion was made to adjourn the meeting.

Motion: Mr. Jannarone Seconded: Mr. Doherty Approved

Respectfully submitted,

Fran DeWitt
Recording Secretary

**The next Consolidated Zoning Board of Appeals meeting is
Monday, March 15, 2010**