

**APPROVED: 1/17/12**

**MINUTES OF THE  
CONSOLIDATED ZONING BOARD OF APPEALS  
OF THE  
TOWN OF HIGHLANDS AND VILLAGE OF HIGHLAND FALLS  
NOVEMBER 21, 2011**

A regular meeting of the Zoning Board of Appeals was held in the Town Hall, Highland Falls, New York, on Monday, November 21, 2011, at 7:00 P. M.

**THERE WERE PRESENT:**

**Board Members:**

David Weyant, Chairman

Tony Galu

Ray Devereaux

Ralph Montellese

**Absent:**

Jack Jannarone, Deputy Chairman

Tim Donnery

Tim Doherty

Alyse Terhune, Attorney (Jacobowitz & Gubits, LLP)

**ALSO PRESENT:**

John Hager, Building Inspector, Michael Maggio (James M. Copeland R.A., Hudson Design), and Daniel Malarkey.

MR. WEYANT: I am going to open the Consolidated Zoning Board of Appeals of the Town of Highlands Meeting of November 21, 2011, and note that all members are present with the exception of Mr. Jannarone, Mr. Doherty and Mr. Donnery. We do have a quorum.

The first matter on the agenda is approval of the Minutes of October 17, 2011, which were sent to all of you prior to tonight. Are there any changes to those minutes? Hearing none, I would like someone to make a motion to approve the minutes.

**A motion was made to approve the October 17, 2011 Minutes.**

**Motion: Mr. Montellese    Seconded: Mr. Galu    Approved**

MR. WEYANT: First matter on the agenda after approval of the minutes is we are going to have a request from Marchese Chevrolet. 1018 Route 9W, Fort Montgomery, NY. Representing Mr. Marchese is Mr. Copeland?

MR. MAGGIO: Actually it is Mike Maggio. I work for Mr. Copeland.

MR. WEYANT: Come on up sir. Mr. Marchese has designated James M. Copeland R.A., Hudson Design, Architecture/Construction of Garrison to present the preliminary discussion on what appears to be a couple of additions to the showroom building now which they are going to need variances for. They will also have to go

through the Planning Board after we are done for site plan approval. They are going to start with us. You should all have his application as well as his renderings. Again, your name?

MR. MAGGIO: Mike Maggio.

MR. WEYANT: If you would discuss for the Board what your intentions are for the property and why you need variances.

MR. MAGGIO: I will go with the site plan first. The existing building is an existing non-conforming to the Zoning Regulations. What we are asking to do is to have approximately 125 square foot addition on the front setback added to the building for a new façade as well as a small addition in the rear for a wash bay which would be approximately 528 square feet.

MR. WEYANT: We are looking at two separate lots for this or one?

MR. MAGGIO: It is actually one. Using the plan, he explained showing the car lot, building, and service area.

MR. WEYANT: Show me the where front yard set back will be.

MR. MAGGIO: (He showed on the plan where that would be). Right now they have some cars displayed there. We need just about 125 square foot addition on the front to support the new façade.

MR. WEYANT: So you would be requesting a variance of approximately 18.3 feet on the front yard.

MR. MAGGIO: That is correct.

MR. WEYANT: Then we have the side yard which is where?

MR. MAGGIO: (He showed on the plan where that would be). Right now the existing building is 8 feet from the property line. The edge of our addition is about 23 feet. The Zoning Regulations require 30. We are looking for about 7 feet.

MR. WEYANT: Your application says 12, am I reading it wrong for the side yard?

MR. MAGGIO: We also have to take into consideration the worse case scenario being the rear addition. The rear addition is about 8 feet. We are looking for about 12 from the side lot on the rear.

MR. WEYANT: We are looking at two variances, right?

MR. MAGGIO: That is correct.

MR. WEYANT: Front yard of approximately 18.3 feet and the side yard of approximately 12 feet. That is it?

MR. MAGGIO: That's it.

MR. WEYANT: Anything else you want to show us?

MR. MAGGIO: This is the proposed design from Chevrolet of the existing building. What we are doing is putting a new façade on the building and then renovating the showroom. That is pretty much the extent of the building. The rest of the building will be primed and painted, and a new roof will be in place, and the gutters and all that will be reworked.

MR. WEYANT: When would you envision that work would start once you get your approvals?

MR. MAGGIO: If all goes well, we are looking to start probably April – May. That is taking into consideration Planning, Zoning and building process.

MR. WEYANT: Any questions, Gentlemen, at this point.

MR. MONTELLESE: The back wash bay on the corner of Montgomery Road. Do you have anything to show what that is going to look like?

MR. MAGGIO: If you look at the elevation, we are basically going to match the existing construction. There will be a garage door and a covered space, because right now the wash bay is in the front of the building. They would like to remove that and use that as a quick oil change type thing and put the wash bay in the back. It will conform to the existing building the same sort of style with a garage door on it.

MR. MONTELLESE: Thank you.

MR. MAGGIO: Most of the renovation as you see is from the front façade.

MR. WEYANT: Our next step will be is to set a Public Hearing for you. I am sure that you have dealt with these requirements before. You will have some things to do in the way of mailings and signage prior to the meeting. As the Building Inspector was discussing with you, there is also Orange County notification because of your frontage to Route 9W. That would be December 19, 2011, at 7 P. M. At least 10 days prior which would be December 9, that would be the actual last day that you could do your mailings and notifications. They have to be out by then. Of course you can do it prior to then. You have to have it done 10 days prior to our meeting. John will work with you.

MR. MAGGIO: John has been great going through the whole process. Thank you very much.

MR. WEYANT: Mr. Malarky. Are we going to have a Public Hearing?

MR. MALARKEY: Well it was advised to me that we don't need a Public Hearing. First of all, I am not seeking a variance.

MR. WEYANT: You are not seeking a variance?

MR. MAGGIO: I am not seeking a variance, he is seeking a variance.

MR. WEYANT: Excuse me, are you seeking an interpretation of the Zoning Code before this Board?

MR. MALARKEY: That I am seeking.

MR. WEYANT: That is what I am referring to. I am referring to an interpretation which is what your application requested. In order to do that, as I explained to you at our last meeting, there were things that you had to do legally which I understand have not been done.

MR. MALARKEY: I have to incur debt. I have to pay for stamps and Xeroxing for somebody else. No, you are wrong. He has to do that. And, I was never advised where to hang the notice of Public Hearing. Go by your recording of your last month's meeting. Nobody could tell me, he couldn't even tell me where to stick that notice of Public Hearing.

MR. WEYANT: You signed an application.

MR. MALARKEY: You people have done your job here. I will take care of everything else. Have a good day. Each and every one of you don't belong here. You know the God Damn law. Go stick it up your ass.

**(Applicant Malarky left the room).**

MR. WEYANT: On that basis Counsel, can we at this point in time deny any further discussion on this application?

MS. TERHUNE: Yes. You can do one of two things. You can give him one more chance.

MR. WEYANT: Which I am not about to do after that display.

MR. MONTELLESE: He has even come to my private place Of business and acted like this as a matter of fact. I was very close to calling the police.

MR. WEYANT: I am not going to give him any further chances. We have been going through this since August. I think we have been overly fair and I can't do anything different for him than for any other applicant. He talks about incurring expenses well the Town has now incurred expenses beyond the \$75.00 that he has given us just for publication costs and our legal fees.

MS. TERHUNE: There is no provision in the Town Zoning Law to make a distinction between an application for interpretation versus an application for a variance. I don't know where he is getting that but given his attitude and unwillingness to go along with the procedures, I think that the Board if you want, can certainly consider denying it.

MR. WEYANT: Do we have to have an official vote to deny it? Or just make note on the record?

MS. TERHUNE: Yes, an official vote.

