

**APPROVED: 10/19 /15**

**MINUTES OF THE  
CONSOLIDATED ZONING BOARD OF APPEALS  
OF THE  
TOWN OF HIGHLANDS AND VILLAGE OF HIGHLAND FALLS  
SEPTEMBER 21, 2015**

A Regular meeting of the Zoning Board of Appeals was held in the Town Hall, Highland Falls, New York, on Monday, September 21, 2015, at 7:00 P. M.

**THERE WERE PRESENT:**

**Board Members:**

Tim Doherty, Chairman  
Jack Jannarone, Deputy Chairman  
Ray Devereaux  
Tim Donnery  
Tony Galu

**Alyse Terhune, Attorney, (Lewis & McKenna)**

**ALSO PRESENT:** John Hager, Building Inspector, Michael Colacicco, Lynn Edsall, Sean Cockrill, Dominic Dinardi, Ned Kopald, Rakhil Patel, Dilip Patel, David Garbel, Geoff Provan, and Vivek Naik.

MR. DOHERTY: Today is the September 21, 2015 Meeting of the Consolidated Zoning Board of Appeals of the Town of Highlands and Village of Highland Falls. Present are: Tony Galu, Ray Devereaux, Tim Donnery, Jack Jannarone, Tim Doherty, Alyse Terhune, and Fran DeWitt.

**A motion was made to approve the July 20, 2015 Minutes.**

**Motion: Mr. Devereaux    Seconded: Ar. Donnery    Approved**

**Holiday Inn Express, 1106 Route 9W, Fort Montgomery, NY, Mr. Dilip Patel, Rakhil Patel.**

MR. DOHERTY: Mr. Dilip Patel, raise your right hand, please. Do you swear to give all the information as truthful and accurate to the best of your ability for this application?

MR. PATEL: Yes

MR. DOHERTY: Thank you. You are here this evening for a couple things is my understanding. First you want to put the addition on the existing hotel and then the banquet hall. Then looking at your structure, to the left hand side of the lot,

you want to put an additional annex. Would you go through what you plan on doing for the Board?

My name is David Garbel, Civil Engineer with AFR from the New Jersey Office.

MR. DOHERTY: Mr. Garbel, please raise your right hand, please. Do you swear to give all the information as truthful and accurate to the best of your ability for this application?

MR. GARBEL: I do. Showing on the plans, Route 9W, entrance with Holiday Inn Express Sign, divided entrance, going into the existing building here with a pool in the back. The three-story building is not going to be modified. We are not touching it at this proposal. The previous plans for that are gone now.

The two things that are happening are this banquet hall with 24 rooms above it. It is going to be a taller banquet hall, 20 feet, and then the two stories above it. The additional building annex is going to be here with 79 rooms to the left. And to use a professional term, a bunch of parking. Part of the project is to consolidate two lots. To the right is the parking area and parking around hotel with emergency access.

MR. DOHERTY: So, no parking in the rear of the structure, strictly fire access?

MR. GARBEL: No, strictly fire access, one way, the only purpose for this. We will have additional parking here and proposing to put dumpster.

MR. DOHERTY: My first question concerns the banquet hall. It is going to stay and is not going to exceed the height of the structure? Is that correct?

MR. GARBEL: It is exceeding it.

MR. DOHERTY: By a single floor or two floors?

MR. GARBEL: A single floor. It is not exactly a single floor it is depending on the architectural work. That is not pinned down how the architecture will work between the two of them. The plan is for this to be higher due to the fact that the banquet hall is taller – the nature of a banquet hall, more height.

MR. DONNERY: The whole building is not going to exceed 35 feet, is it?

MR. GARBEL: That is a very interesting question. Banquet hall then you add a little more than 10 and 10 with the floor between them.

MR. DEVEREAUX: 50 feet total.

MR. GARBEL: We are asking for 50.

MR. JANNARONE: How tall will the annex be?

MR. GARBEL: We are asking for 50 again because we don't know exactly how it is going to come from the Holiday Inn. They have some niceties and all that sticks above the floor. We want to have a little bit of safety there.

MR. JANNARONE: Is that going to be a three-story structure?

MR. PATEL: The main building?

MR. JANNARONE: No, the annex.

MR. PATEL: This is going to be an additional hotel so that is going to be a total of four stories. That is what the variance is for.

MR. JANNARONE: The annex is going to be three stories plus eight, so four stories.

MR. PATEL: The entrance. It is a four story hotel and the banquet hall will have a two-story ceiling height and two additional floors.

MR. JANNARONE: Then you will retain the three-story original.

MR. GARBEL: Yes, this one is not being modified.

MS. TERHUNE: How many rooms? 79 here and how many rooms in the banquet?

MR. GARBEL: 24 above the banquet, two stories above.

MS. TERHUNE: You have started the process of consolidating the lots?

MR. PATEL: Yes.

MS. TERHUNE: You sent a letter to the Assessor?

MR. PATEL: Yes.

MR. DOHERTY: The annex building will be an annex building or technically a separate hotel.

MR. PATEL: It is a separate hotel.

MS. TERHUNE: So there will be two Holiday Inns on the property?

MR. PATEL: Two different hotels.

MR. GARBEL: It is not going to be the same kind of Holiday Inn.

MS. TERHUNE: I see. Will corporate still be the Holiday Inn?

MR. PATEL: We don't know yet. It could be, or it could be a different brand. It may belong to the same corporate family.

MR. DOHERTY: Different branding.

MR. DEVEREAUX: And the number of rooms, please?

MR. GARBEL: This one is 79.

MR. JANNARONE: Talk about the parking, if you would.

MR. GARBEL: We are showing 91 parking spaces for the existing hotel. We are keeping most of them. We will lose a few of those. It will end up being 145 parking spaces

MR. DOHERTY: So you will be 14 shy of the parking requirement.

MR. GARBEL: Yes.

MR. DONNERY: Is that 14 shy because of the hotel and the banquet area?

MR. GARBEL: The total of 259 parking spaces includes the existing hotel, proposed hotel, and the banquet hall. All put together.

MR. JANNARONE: On your application you show the building height at 50 feet and that may be more than you would actually need, but you are using 50 feet to be safe. Is that a fair assessment?

MR. GARBEL: I think that would be a fair assessment.

MR. DOHERTY: That will include your parapet and the ornamentals.

MR. GARBEL: We don't want to come here again later on asking for another foot.

MR. JANNARONE: I just want to be sure you are comfortable with that number.

MR. GARBEL: Yes, that is why we went to 50.

MS. TERHUNE: How many rooms are in the existing hotel?

MR. PATEL: 86 rooms in the Holiday Inn Express.

MS. TERHUNE: And you are not adding rooms, just the banquet hall?

MR. PATEL: Yes.

MR. DOHERTY: And how many rooms are being added above the banquet hall?

MR. PATEL: 24 rooms.

MR. DEVEREAUX: Do you have the breakdown for the parking, I don't have my sheet.

MR. DONNERY: We have it but it is so small that I can't read it.

MR. GARBEL: If anyone would like to see those numbers, I have them here in larger print.

MR. DOHERTY: I would like to ask that, in light of our delightful last few winters, what are you going to do with the snow?

MR. GARBEL: We get that question. I can ask both of you, are you busy in the winter?

MR. DOHERTY: Obviously, you will end up losing a number of spaces.

MR. PATEL: Showed on the plans where the areas would be for the snow, including the sidewalk areas.

MR. GARBEL: The lanes here are relatively generous at the entrance.

MR. DONNERY: That is a Planning Board issue anyway. I am concerned about a full banquet hall. You would have to have a written okay by the fire department. I think last time they were good for 65 feet.

MR. DOHERTY: They were good with putting the fourth floor on. We had discussions with them. Fort Montgomery and West Point both have ladders.

MR. DONNERY: But the last time we discussed it, it wasn't at a height of 50 feet.

MR. DOHERTY: It was taller.

MR. DONNERY: I'm happy.

MR. DEVEREAUX: That is a matter that you will have to face with the Planning Board.

MR. DOHERTY: Do any Board members have any other questions before we open it up to the public?

MR. GALU: I think it is a good project.

**At 7:17 P. M., a motion was made to open the Public Hearing.**

**Motion: Mr. Jannarone    Seconded: Mr. Donnery    Approved**

MR. DOHERTY: Any questions from the Public?

**MR. MICHAEL COLACCICCO**, Fort Montgomery. How far is the second hotel from Route 9W? What is the setback?

MR. GARBEL: It is the front setback, 30 feet from the property line.

MR. COLACCICCO: My big concern, and probably the Planning Board's as well, is the massive along there. That is about 15 feet higher than the fitness center there. We are now going higher along that whole 9W strip, are we creating a situation with taller buildings that are obstructing people's views. I don't particularly have an issue with the banquet hall area back there. I am just concerned about up to Route 9W.

The other thing is the emergency entrance runs right in front of my house down the back side. That is a bone of contention with me especially, because many people try to use it. The road is in very bad shape. They graveled it when they originally built the hotel but it is in poor condition. Cars use it, people use it, and people from the hotel come wandering down through there. That is a concern of mine. I will bring that up to the Planning Board. The town required that emergency exit be there, but it is a private road which I am required to maintain. Mr. Patel has no responsibilities for that. I just think there ought to be some other responsibility for that road as. I will talk to the Planning Road. I just wanted to get it out there because it is an irritant.

Other than that, I will say this they have been a very good neighbor. When they built the hotel, they screened the back side, the lighting is back there. We have no lighting issues. There is some noise, with people drinking beer. They usually don't throw the cans over the fence. They are on his property. It doesn't get down to my property.

The height does concern me, the massing by the road. All of a sudden we will have a four-story structure with a little bit more, because you will have a façade. You will probably have a similar façade that you have on your current hotel. Set back, there is no problem. If he was going to add a floor on the existing hotel, I wouldn't have an issue with that. Other than the normal planning stuff snow removal and drainage the Planning Board will be working on.

MR. DOHERTY: You have valid concerns but again, those are issues the Planning Board judges on. Anyone else from the audience, any questions or comments?

MR. GEOFF PROVAN, Fort Montgomery. How big is the banquet hall?

MR. PATEL: 10,000 square feet. 300 people is the standard banquet size.

MR. PROVAN: Is the banquet hall just going to be a banquet hall or are you planning to open a restaurant in the future?

MR. PATEL: No, there will be no restaurant. It will be a banquet hall with a full kitchen.

MR. PROVAN: Will you provide breakfast for your guests?

MR. PATEL: The Express already provides breakfast as part of their amenities.

MR. PROVAN: A bar?

MR. PATEL: A bar will only be part of the banquet facility.

MR. PROVAN: Not open to your guests?

MR. PATEL: It is unknown, as we are planning the overall concept. If we will do a full kitchen, it is available for wedding parties or functions to have a restaurant come and use the facility, like the kitchen area.

MR. PROVAN: So you are not going to provide the catering?

MR. PATEL: It is all unknown. We can provide the hall with the kitchen or we can also do the catering, but that is something we don't want to do.

MR. PROVAN: You have no intention of opening a full scale restaurant for your guests.

MR. PATEL: Not for the hotel guests. The bar would be attached to the banquet hall.

MR. PROVAN: Only open during banquet hours.

MR. PATEL: I believe so, yes. That is what we are thinking.

MS. TERHUNE: So the answer was that there will not be a public restaurant or a public bar. It is only events.

MR. PATEL: That is correct.

MS. TERHUNE: So it is catering?

MR. PATEL: Yes.

MR. DOHERTY: Any other questions?

MS. TERHUNE: I have a couple questions. I am going to direct this to the Building Inspector. Do you see any concern with two principle buildings on a single lot? You don't have to answer that now, but we may want to think about that.

MR. HAGER: Initially, no. I will look at that a little closer

MS. TERHUNE: Could you issue an opinion for the Board?

MR. HAGER: Yes.

MS. TERHUNE: It is the same use. Do we need a variance for two principle buildings on a single lot now that you are combining the lots, which you need to do for the area? I would note that, as we mentioned before, it is 1,000 square feet. I would note that for the record.

MR. JANNARONE: Is there a distinction between two Holiday Inns on one lot and a Holiday Inn and something else on one lot?

MS. TERHUNE: I don't think that is the real issue. I think the issue is two principle buildings, even though it is the same use. I don't think that this Board has addressed that in the past, but I would ask the Building Inspector to give us some kind of interpretation. I would also note for the Applicant that we did do a 239 to the County as we must; however, that was with the old plan when you weren't looking at another building on site. I did formulate another 239 Referral. The Chairman has signed that so we will get that out. Because of that, there won't be any decision tonight. Also, I think we need an interpretation from the Building Inspector. We have to give them another 30 days to respond, them, being the County.

MR. JANNARONE: Have we heard from everyone else like the Palisades Interstate Park Commission.

MS. TERHUNE: We don't have to refer to them, just the County. You will want to table it until next month. We will get the 239 out immediately.

MR. DOHERTY: Any other questions?

MR. DONNERY: The two buildings we are talking about, would that be us or the Planning Board?

MS. TERHUNE: It would be us. In other words, if they need a variance for the other building, this Board would consider that at the next meeting. If the Building Inspector decides that they don't need a variance, then that is fine. But, I want something in the record initially from the Building Inspector. I will look at the Code as well, based on what John comes back with and then we will include that in any determination that we make, so there is no question.

I will also call the Town Planning Board Attorney just to let him know that the application has changed and now we are looking at two buildings. I will bring him up to date in case he has any comments so that the Applicant can be made aware of any comments the Planning Board Attorney may have before they get in front of the Planning Board to save them from maybe being sent back.

MR. DOHERTY: They need to reach out to the Assessor as well in this matter, is that correct?

MS. TERHUNE: If you have sent a letter to the Assessor, this Board should have a copy of that letter. We have done that in the past.

MR. GARBEL: The possibility of a third building being considered for the banquet hall.

MS. TERHUNE: Isn't that attached to the existing hotel?

MR. GARBEL: Not on the plans they are not. There is a door and we can connect them. I am bringing it to your attention. That would be a third building.

MS. TERHUNE: I said two principle buildings. I think the Building Inspector and I will consider that. We thought of that as an accessory to the use of the hotel. But we will clarify that.

MR. GARBEL: I didn't want to close that subject before noting the possibility.

MS. TERHUNE: I understand.

MR. DOHERTY: I have a question from my fellow Board Members. Were we not under the assumption that this was connected directly to the building?

MR. DEVEREAUX: That was mine. If you look at the schematic, there is a bridge on the side, and maybe we were thrown off in the discussion.

MR. DOHERTY: That was what I got from the previous discussion that it was going to be one continuous building.

MR. DONNERY: I looked at the way the two lines were hooked up here. I took it for granted that it was coming together. I figured that was how you drained your water from one building to the next.

MR. GARBEL: We would rather have the separation here for different purposes down the road before the fire code issues and other issues came out.

MS. TERHUNE: I think the Board thought it was connected. Is there any reason you could not connect it.

MR. PATEL: The Holiday Inn Express cannot have a banquet hall connected to them. They prefer to not have them connected. You don't see that in their franchise.

MS. TERHUNE: Let's ask the Building Inspector to tackle that question and give us an opinion. He and I will discuss it.

MR. HAGER: So the banquet hall business would be available to the guests of the Holiday Inn Express. It would be available to guest of the new hotel and it would be available to the general public even if they were not guests. It is a standalone business.

MR. PATEL: But the main thing would be the Holiday Inn Express or the other hotel bringing in the business into the banquet hall.

MR. HAGER: But all three businesses would fall under the same management.

MR. PATEL: Yes.

MS. TERHUNE: The banquet hall has rooms above it. Like another hotel.

MR. HAGER: The rooms above the banquet hall would be part of the other two?

MR. JANNARONE: The rooms above the banquet hall are they Holiday Inn Express?

MR. PATEL: A Holiday Inn room. We are working on the concept. We are working with the franchise to see what we can do. And hope it to be a benefit for the existing hotel. It would be another structure.

MR. JANNARONE: It would not be another hotel? It would be the Holiday Inn Express. Same people.

MR. PATEL: Yes. It will all be part of the Holiday Inn Express.

MR. DOHERTY: Have you gotten approval from Holiday Inn Express to put those rooms above there?

MR. PATEL: It is too early for them to say anything until we get our process going.

MR. DOHERTY: So quite possibly you could be coming back before us when they tell you that, “no, you can’t put rooms above it.”

MR. PATEL: It’s possible, yes.

MR. GARBEL: I think if you grant us the variance and we don’t use it, we are fine with that. If the hotel is going to be lower and we don’t require a variance.

MS. TERHUNE: The other hotel is going to require the variance. If the franchise says you can’t do that, then it is just less use of the variance.

MR. JANNARONE: Then they meet the parking requirement.

MS. TERHUNE: Yes, they would meet their parking requirement because they are 15 over and it is one per room and if they don’t have 24 extra rooms, they won’t need the parking variance.

MR. DONNERY: Should we be concerned where the entrance and exits are?

MS. TERHUNE: That is something that the Planning Board will address in terms of emergency access, entrance exit. If the Planning Board makes a decision and something happens and they need another variance, then they will have to come back.

MR. DONNERY: When I looked at my first plans, I thought here was connecting and that was how you were going to access your rooms. Now you are telling me they are not connected, it doesn’t show any entrance way.

MR. PATEL: The main entrance way.

MR. DOHERTY: Does everyone have a copy of the new sheet?

MR. DEVEREAUX: Not the new one. We are sharing.

MR. DOHERTY: The full scale size. Can you get copies for all the Board Members and Ms. Terhune. They can be put in our mailboxes. Any other questions from the Board?

MR. DEVEREAUX: What are your projections if you get approvals? What would you do? Say 45 days from now, assuming you get all the approvals?

MR. PATEL: In terms of construction? It depends on Planning Board, also. May, 2016.

MR. DONNERY: How long does it usually take to get the 239 back?

MS. TERHUNE: They have a month. If they come back to us before the 30 days, then we can decide. If they don't get back to us, and we are sending it out tomorrow, and what will happen is I will call Fred, if we are coming up on a meeting and we don't have it back, I will send an email. Did you have a chance to review this? But, if he says "no I haven't and I need 30 days," then we are at his mercy.

MR. DONNERY: I just wondered if we could do a special meeting to get things going before the winter.

MR. JANNARONE: They aren't going to do anything before the winter anyway.

MR. DOHERTY: They have to go to the Planning Board. They are not going to break ground in December

MR. PATEL: My question is when can I submit the application to the Planning Board, in November?

MS. TERHUNE: Yes. When does the Planning Board meet?

MR. DONNERY: They meet after us.

MR. HAGER: Third Thursdays.

MS. TERHUNE: It is unlikely. If everything were in a perfect world for you, this Board would decide in October and then you could submit the application. The Planning Board has to have time.

MR. PATEL: Nothing is perfect. November.

MR. DOHERTY: We will be meeting October 19, 2015. The Board will table this and bring it up at the October meeting.

MR. PATEL: I will get copies for all of you.

MS. TERHUNE: It is more important for the ZBA to have copies, but it does make it easier for me if I have copies.

I would also like to note for the record that the Board has the Affidavit of Mailing and the Affidavit of Posting. We do not have an Affidavit of Publishing, but we will be getting that and both the Building Inspector and Chairman saw the publishing in the paper. We should have that affidavit by next meeting.

MR. DOHERTY: So other than the plans, we don't need anything else from the Patels at this time.

MS. TERHUNE: We would like a copy of the letter to the Assessor.

MR. DOHERTY: We would like a copy of the letter to the Assessor and other full sized copies would be great.

MS. TERHUNE: And an interpretation by the Building Inspector.

MR. DOHERTY: Thank you Gentlemen.

MR. PATEL: Thank you.

**Sean Cockrill, 11 Mountain Avenue, Highland Falls.**

MR. DOHERTY: Next up on our docket is Mr. Sean Cockrill. Please come forward. Would you review for the Board what your project is?

MR. COCKRILL: (Handed out images to the Board Members). I am Sean Cockrill and I submitted a Change of Use Permit to the Building Department for the property on 11 Mountain Avenue in Highland Falls to change the building to a cross fit gym.

The permit was denied as this business requires extra parking. Currently you see 11 Mountain Avenue is a 2,800 square foot property located in between the fire parking lot and the fire station. To the south is Mr. Dinardi's property and to the north is Mountain Avenue. So there is no room to expand or create any parking within the property. To the west side of the property there is a very narrow about a five foot road that runs parallel to the building where you could fit two cars in there. So really for any business or office space that you want to create for this you would need a variance for parking because you cannot provide it for yourself.

If you look on the second page of photos, you can see the limited parking area there in the bottom right photo. Obviously, only one car can go in and out at a time and there is no room to expand with the fire station. On the last image it shows the building is highlighted in red and it shows the proximity to Main Street and the Municipal Parking Lot. We are 200 feet west of Main Street and approximately 400 feet west of the Municipal Parking Lot. So for a variance as stated for the Zoning Board it requires for every 40 square feet one parking space. It would require 56 parking spaces. I believe the Fort Montgomery Fitness Center used the State Rule of 50 square feet per space in the building for one parking spot. Either way, you are looking at 58 or 46 parking spaces. We only have two. We have no room to expand.

MS. TERHUNE: This is in the Village, right?

MR. COCKRILL: Yes. Our request is for the variance for this building to fall under the Exempt District that runs along Main Street to be able to use the road

side parking and the municipal parking lot in order to allow our members to access the facility.

MR. DOHERTY: I'm sorry, would you repeat that?

MR. COCKRILL: Due to our close proximity to Main Street and the Exempt District to allow us to be zoned with that district in order to allow our members to use the street parking and municipal parking lot.

MR. JANNARONE: So you are not actually in the Exempt District?

MR. COCKRILL: We are not. We are 200 feet outside it. We fall into B-1.

MS. TERHUNE: The Building Inspector has opined that this is a personal service use, correct?

MR. HAGER: It is kind of a gray area in the Code. We don't have a specific use listed for that. I think it would be reasonable to group it in that category. In the denial letter that I wrote, I made reference to this, as a postscript to the denial letter. I mentioned that: 1) a fitness center is not listed specifically as a recognized use; and 2) of the uses listed, the most appropriate is personal service shop which includes professional studio and similar shop. I am inclined to interpret that the use requested fits into the category of a personal service shop. The Village Planning Board may prefer that a new use be created and adopted into the Zoning Code. I also mentioned that we had a similar circumstance in the Town and they decided to add the use as a special exception use. I advised the Applicant that I think it would be wise to approach the subject with you to see if we are all on the same page in interpreting that it could fit into the personal service shop and move forward with the application.

MS. TERHUNE: But we are applying the 41 space per 40 square feet rather than the personal service one at 200 because of the gymnasium use.

MR. HAGER: The personal service would be a less parking spaces needed for the same space. The way that they dictate that this parking requirement be applied is that the use that is most similar when it comes to parking. (Referred to the Code).

MS. TERHUNE: But a gymnasium is not a gym.

MR. HAGER: That's true. It would compare to the personal service category. In the Building Code and the State Code it is considered a business use as long as the occupancy does not exceed 50. It would be a fair way of handling it. That would reduce the number of parking spaces required and the size of the variance.

MS. TERHUNE: Like 14. A gymnasium assumes that there are spectators, like a ballgame; whereas, personal service is more like a dance studio or yoga

something like that. It seems to me that it would be more reasonable to apply the 1 for 200 rather than the 1 for 40 which would be gymnasium.

MR. COCKRILL: They run very similar to a dance studio. You have allotted hours where we have classes. The coaches teach the classes so it is not everyone coming at one time. Throughout the day we have morning classes and afternoon classes and evening classes.

MR. JANNARONE: There are individual workouts as well?

MR. COCKRILL: There are. It is an option. But the main purpose is the community.

MR. DOHERTY: It is a group activity.

MS. TERHUNE: It is more of a group activity than – you have machines there, right?

MR. COCKRILL: No. There will be some rowers and there will be equipment but not like Fort Montgomery gym.

MS. TERHUNE: Not like Gold's Gym.

MR. COCKRILL: No.

MR. JANNARONE: It is a very Spartan environment and it is just working hard.

MR. COCKRILL: Yes, high intensity functional exercises, constantly varied, so you are not doing the same thing over and over.

MS. TERHUNE: I think it would be reasonable for this Board to apply the personal service 1 for 200 rather than a gymnasium at 1 for 40. That means they would need 14 parking spots.

MR. JANNARONE: How many people are you expecting to be in a class?

MR. COCKRILL: That will obviously depend upon the number of members we get. But really in that size space, 25 people would be max. I can create the workouts to where you can maximize more people at one time. Honestly, we would have to limit that number to really what can fit in there. You do that with people signing up for class hours and scheduling accordingly.

MR. DEVEREAUX: I think parking requirements will differ depending upon the time. The parking lot here in the evenings it is pretty filled up because many of the tenants that park there. I don't know how that reflects. Does he have to go to the Planning Board?

MR. HAGER: Yes.

MR. DOHERTY: For the parking issue?

MR. HAGER: He needs to go to the Planning Board for Site Plan approval and Change of Use. If you are able to grant the variances, the next stop would be the Planning Board.

MS. TERHUNE: If you apply the 1 for 200, he needs 14 and he has two.

MR. DOHERTY: Technically, one because you can't really fit more, perhaps two employees.

MS. TERHUNE: It is a substantial variance but it is not 59.

MR. JANNARONE: I'm okay with that.

MR. HAGER: The State Building Code calls out a 50 square foot per occupant for the gym type of environment; however, the Building Code is structured to give you the maximum occupant count for safe fire and escape, etc. That number is the maximum number of people to occupy space safely. That doesn't necessarily mean that a lot of spaces are going to be occupied regularly.

MR. JANNARONE: Certainly not doing this kind of workout.

MR. HAGER: Right. 14 people in there is probably a number that wouldn't regularly be there at one time.

MR. COCKRILL: Especially with six or seven classes.

MR. HAGER: I do believe it would be reasonable. I don't think that number is that far off.

MR. DOHERTY: The 14?

MR. HAGER: The 14. Picturing the space that's there – it is not all going to be gym area. There will be office space and some sanitary facilities.

MR. COCKRILL: There will be about a 200 square foot office.

MS. TERHUNE: What are your hours of operation?

MR. COCKRILL: That will be determined by the number of members. In my experience, you have an early 5:00 and 6:00 A.M. classes for those that want to get it in before work. You have 9:00 A.M., the stay-at-home types who can make that hour. A Noon class for lunch time, and then in the evening is the big push after work, the 5:00, 6:00, and 7:00 P. M. classes.

MS. TERHUNE: I would suggest to the Board that the Applicant immediately file an amended application to show the 14 and this has to go out to the County. You can set up a Public Hearing for next month. This has to have a 239. We will send that out when we get the amended application.

MR. COCKRILL: By changing the variance.

MS. TERHUNE: Yes. Then it is up to the Board whether they feel that they have enough information to set a Public Hearing now for next month.

MR. DONNERY: My only concern right now is we already have deli on one side and a bar restaurant under the same scenario of parking.

MS. TERHUNE: Are they in the Parking Exempt District?

MR. HAGER: No business that does not front Main Street is in the Parking Exempt District.

MR. JANNARONE: So the Fireside and the Bodega don't have the parking either?

MR. HAGER: They also pre-date the Code.

MR. JANNARONE: They are grandfathered.

MR. HAGER: It is worthy to note that there is really no use that could go into this space that wouldn't require some kind of parking variance. The other uses have similar requirements and some would require a few more parking spaces.

MR. JANNARONE: Do you own the building?

MR. COCKRILL: I will be leasing it from Mr. Dinardi.

MS. TERHUNE: And we have his Affidavit allowing you to make this application?

MR. COCKRILL: Yes.

MR. DEVEREAUX: It sounds like a healthy use for the space.

MR. DOHERTY: In the Village, John, for notification it would be all the abutting property?

MR. HAGER: For notification it will be all of your adjoining property owners and whoever is across the street.

MR. DOHERTY: Like Mr. Fatsis' building and the fire department.

MR. HAGER: You have about eight properties.

MR. DOHERTY: The phone company, not really, right?

MR. HAGER: The fire department will be both sides and whatever is behind them and across the street.

MR. DOHERTY: And that corner building.

MR. DONNERY: There is no other parking to offer.

MR. HAGER: There really is no alternative.

MR. DOHERTY: And you have to realize that those side streets are all multi-family dwellings. There is not a square inch of parking on those streets.

MS. TERHUNE: So where are they going to park?

MR. JANNARONE: The Village parking lot.

MR. DOHERTY: That is a good question. This lot here during the day there is some available parking but, as Ray pointed out, come the evening, 6:00 P. M. it fills up quick. If it is snowing, it is packed. But then again if it is snowing that day, I don't think anyone is going to come out to do cross fit.

MR. DEVEREAUX: We could look outside to see how many spaces are left, just out of curiosity.

MS. TERHUNE: That of course, is a business issue. If the people can't park, they can go.

MR. DOHERTY: It is about half full.

MR. COCKRILL: The other consideration is that they are coming here to work out anyway. If they have to park by Tony's and have jog down the street, they won't make a fuss about that.

MR. DOHERTY: My concern, and I will be right up front about this, is that fire house parking lot.

MR. COCKRILL: In our contract it will specifically state that "at no time will you ever park in that parking lot." My coaches will monitor it throughout the day.

MS. TERHUNE: You have to realize that the people that come to save our structures, that is where they park.

MS. TERHUNE: Will they be issuing tickets.

MR. DOHERTY: It is private property, I don't know if the Police can do that. I don't know what the ruling is on that. I will have a discussion with Chief Scott.

MS. TERHUNE: You can certainly require them to post a permanent sign there, Do Not Park.

MR. DOHERTY: Cross Fit would have to provide that.

MS. TERHUNE: Yes.

MR. COCKRILL: There is one there.

MR. DOHERTY: As a caveat, I would like a good-sized sign saying that nobody from Cross Fit can park in that lot. That is a big if.

MS. TERHUNE: I know there is a municipality in New Jersey where there was a private parking lot right next to a restaurant, people had to parking in the municipal parking lot. People were getting towed.

MR. DOHERTY: The fire department is not in the business to enforce or hire someone to tow. It would be counter productive.

MR. DONNERY: They would be blocked in until the fire emergency is over.

MR. DOHERTY: That is very true.

MS. TERHUNE: That is a legitimate issue and the Board will have to address that in their determination. So right now as soon as you can you will re-file.

MR. DOHERTY: Changing the requirement for the number of spaces, right?

MR. HAGER: The Board Members are comfortable with the category of Personal Service for the use?

MS. TERHUNE: Yes, they are. That will reduce the number of the variance itself. If you want to set a Public Hearing, you can or you can wait.

MR. DONNERY: We need a 239, right?

MS. TERHUNE: We will do a 239, yes.

MR. DONNERY: So we will set a Public Hearing.

MR. DEVEREAUX: Subject to the 239.

**A motion was made to set a Public Hearing for October 19, 2015 for this project.**

**Motion: Mr. Jannarone Seconded: Mr. Devereaux Approved**

MR. DOHERTY: So you will meet with Mr. Hager to take care of the amendment to your application. We will wait for the application before the 239 is sent.

MR. COCKRILL: It will be done tomorrow.

MS. TERHUNE: If John gets me a copy of the application tomorrow via email, I will go ahead and send in the 239.

MR. DOHERTY: So it will be to your benefit to see John tomorrow.

MR. HAGER: There is no physical work for the site. I think the applicant is going to meet Thursday with the Planning Board

MR. COCKRILL: I have an informal meeting with the Planning Board

MR. HAGER: To discuss what has to be submitted for the Site Plan.

MR. JANNARONE: You need to meet with Mr. Hager to find out about the mailings. You have to publish and do mailings.

MR. COCKRILL: Yes.

MR. HAGER: For the Public Hearing.

MR. DOHERTY: Well thank you. So you will meet with Mr. Hager tomorrow and expedite everything else that needs to be done.

MR. COCKRILL: Yes.

**At 8:05 P. M., a motion was made to adjourn the meeting.**

**Motion: Mr. Devereaux Seconded: Mr. Donnery Approved**

Respectfully submitted,

Fran DeWitt, Recording Secretary

**The next Consolidated Zoning Board of Appeals  
meeting is Monday, October 19, 2015**