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ZBA MEETING MINUTES
TOWN OF LLOYD ZONING BOARD

Thursday, December 8, 2016

CALL TO ORDER TIME: 7:00pm

PLEDGE OF ALLEGIANCE

ATTENDANCE Present: Anthony Pavese, John Litts, Alan Hartman, Paul Symes, Paul Gargiulo,
Genevieve Trigg; Planning & Zoning Board Attorney, Michael Guerriero; Town Board Liaison
Absent: Peter Paulsen, Elaine Rivera Anthony Giangrasso; Deputy Building Inspector

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

New Public Hearings

Highland Assisted Living At Village View, 1-9 Grove St, 88.69-1-10/11/12, in R1/4 zone.

This project consists of a 18,310 s.f. expansion to an existing assisted living facility. The expansion will allow a total of 80 beds and not more than 13 employees per shift. There will be a total of 15 parking spaces as 9 parking spaces have been waived by the Planning Board at their workshop meeting held on November 17, 2016, this in turn eliminates the need for a front yard setback variance and reduces the building coverage variance request.

The applicant is requesting two area variances as follows:

	<i>PERMITTED</i>	<i>EXISTING</i>	<i>VARIANCE REQUEST</i>	<i>Total Coverage</i>
<i>Building Coverage</i>	18%	23.5%	5.6%	23.6%
<i>Lot Coverage</i>	25%	48%	25.6%	50.6%

Stu Mesinger Planner with Chazen Companies, the applicant's representative, was present for the meeting.
Richard Cantor, the applicant's attorney, was present for the meeting.
Phillip Schonberger, the applicant, was present for the meeting.
Genevieve Trigg with Whiteman Osterman & Hanna LLP, Planning Board Counsel, was present for the meeting.

A **Motion** to open the public hearing was made by Anthony Pavese, seconded by Paul Symes. All ayes.
Wendy Rosinski owner of 1 Meadow Street: My house is directly across the street from where the proposed parking lot is going to be. We had issues with this project from the beginning because the Town Board had

42 granted a rezoning of an adaptive re-use property. Now the developer is requesting a 25% increase in lot
43 coverage. This project just gets bigger and bigger and bigger. Originally this project was going to be a T, they
44 are taking 3 existing homes down, now it is going longer and it is just getting bigger and bigger and infiltrating
45 the neighborhood even more. First we gave them the rezoning now we are going to give them variances, why
46 do we even have codes and zoning if we are not going to adhere to them? I understand neighborhoods change
47 and things change but we just keep giving and giving and ignoring what we already have in place as far as the
48 code and zoning.

49 Mike Rider of 4 Leonta Court: I have the exact same concerns as she has. I have issues on what kind of
50 people will be housed there because I have had issues with people that are housed there now, banging on my
51 door at 6 o'clock in the morning. I have issues with some guys in wheelchairs going down the middle of the
52 street if they are adding this many more beds, what does the facility have now? Can anyone answer that? My
53 other concern is the kids in the neighborhood, this keeps growing and there is not enough room in these streets
54 now and we get these big trucks through here. As far as the deliveries that go there now they are going across
55 the dentist's parking lot, going through the Town parking lot just to get in there. How will that affect the
56 future? Will we have more trucks, bigger trucks coming through the neighborhood, again the streets are not
57 big enough to handle pretty much what is here now? I know you have been working on this and things have
58 progressed but I do not think the size of the facility in this area is the right thing or place. If this does go
59 forward how long will it take and how long will we have to deal with construction here? What days of the
60 week will you work? Will you be held with the constraints to the laws now because as other things happening
61 at these other buildings that are going on at all hours of the day. Another concern is how does this affect the
62 local lot pricing? How does this affect our houses and mortgages? Are values going to drop will taxes go up?

63 Stu Mesinger: The Town Board rezoned the property from CB (Central Business District) to R ¼ to facilitate
64 and expansion. In the CB district an assisted living facility is not an allowed use, it is allowed in the R ¼
65 district, the Town Board wanted to see this project go forward so they rezoned it. A consequence of the
66 rezoning is that the R ¼ district has different area requirements than does the CB district, which has much
67 lower lot coverage requirements. That is why we are here for this variance. The facility now has 46 beds the
68 expansion would add an additional 34 beds for a total of 80 beds. The architect and engineer looked at the
69 possibility of going vertically upward as a way of accomplishing this but the foundation is not designed to
70 accommodate additional storage. You would need a whole new foundation and you would need to take the
71 roof off and quite likely end up with needing a height variance, this is not really a practical alternative
72 particularly given that the facility must remain occupied and fully operational during the construction
73 operations. The only way to really accomplishment is to force out an expansion. The three adjoining
74 properties each with houses on them the houses will be removed and that effect would be that you are having
75 nearly the same amount of green space and lot coverage as you do in the present situation. To answer some
76 concerns; in this district that we were rezoned to the maximum permitted building coverage is 18%. The
77 existing condition on the tax lot is 23.5 %. The Planning Board granted a parking waiver and with the benefit
78 of a parking waiver our building coverage is 23.6% so we are asking for 1/10 over a 1% increase over what is
79 permitted now. The other variance request is that the maximum lot coverage in this district is 25% the existing
80 condition is 48% with the parking waiver we ask for 50.6%. The increase is only 2.6% over the existing
81 condition. I understand it is more than what is permitted by code now but when you compare to what exists it
82 is not a giant increase and the reason is because we are taking the houses down and using that green space.

83 John L: The 48% of the existing condition is on one piece of property, you are adding a significant amount
84 onto that piece of property.

85 Stu: Yes, and we are taking down three buildings and driveways of which are impervious.

86 I wanted to go back to one of the concerns. The access right now is a little tough access for trucks. The new
87 plan allows us to create a one way access with a second access across from Meadow St., which is a safer
88 access.

89 Wendy R: This is right in my front yard.

90 Stu: We could talk about how we might mitigate that. But from a safety and access point of view I think it is
91 a better access. There is a place for trucks to park and load with a substantial buffer over here. (Pointing
92 somewhere on the plan) With respect to the question of hours of operation the Planning Board will be
93 considering that. I also wanted to point out how this fits into the neighborhood. We submitted a memo dated
94 Nov. 7 2016 with a zoning compliance graph which looks at lot coverage and building coverage in the
95 neighborhood and the fact of the matter is there are quite a few existing buildings, not residences, other kinds
96 of uses that have similar non-conforming lot coverage.

97 John: Are all of them in R ¼?

98 Stu: Not all of them. This demonstrates within the neighborhood there are many other buildings with similar
99 characteristic.

100 John: Do you have a calculation of coverage for all three lots combined as they stand now?

101 Stu: No, but I will get you one.

102 Wendy: We know this is going up but there are other concerns for the siteplan. When trucks exit the facility
103 and head onto Meadow Street you can only go one way once you leave Meadow Street, you can only make a
104 right onto Commercial Ave. It is an issue putting all of those big trucks onto this little road. I know this is for
105 siteplan. I do have an issue with starting out with a smaller building, going different ways, and now this
106 project keeps getting bigger and bigger.

107 Mike R: I do not think this area facilitates this. I see things being approved and then it starts being worked on
108 and the Building Dept. doesn't enforce this stuff, I do not know how this gets fixed. And again how does this
109 affect the property values? There are so many residents here with kids going to school, paying taxes, when we
110 moved in here you did not hear anything in the neighborhood. When does it stop? Is the Town looking to
111 make this whole area commercial? Is that what we are gearing up for? If that is the case I would like to know
112 now.

113 John: The Town does have a comprehensive plan. It is a vision, if you will, for the Town in the future.

114 Anthony P: It has the idea of growth.

115 Wendy: Part of the comprehensive plan is putting people into the hamlet so you get the growth of the hamlet.
116 Businesses in the hamlet depend on people living in the hamlet. Unfortunately this is not a project that is
117 going to do that for the **comprehensive plan** (unclear).

118 John: Just to clarify, we are here to grant a variance for the size, for the lot coverage.

119 Wendy: The Town Board has already granted the rezoning, so the project is going to go forward we
120 understand that. At this point we do not want to lose control of what is going on, it is just getting bigger and
121 infiltrating the neighborhood more and more and more.

122 Mr. Cantor: The zoning has been approved everything else is in application.

123 Mike R: I am not stereotyping, what type of people are going to be in there? Are they going to have special
124 needs mentally? Or is it just physical stuff? A variety?

125 Stu: With respect to the zoning it was commercial zoning and is now residential zoning. It is actually a less
126 intensive zoning. This is not a new use, it is an existing use. People here are generally not driving, they
127 generally do not make lots of noise, and they are not having parties. While the expansion represents and
128 increase in the intensity it is not generally a bad neighbor to most folks. My last point is that the master plan
129 actually calls for senior housing in the Town and this project has a certificate of need from the Department of
130 Health (DOH) recognizing there is a need for this facility.

131 Mr. Phillip Schonberger: My parents and my grandparents were in this business and the most important thing
132 for us is to be a good neighbor. Back at my other facilities the neighbors come to my facilities and bring their
133 kids there and kids come from the local schools to trick or treat or visit on the Jewish holidays. We have
134 community counseling at our facilities, we want to be a good neighbor. The one person in the wheelchair was
135 there before we took over and there are rules and regulations to which we cannot just throw him out. Believe
136 me we are trying to find him another place but there are rules. As long as he wants to stay and is happy here,
137 he will stay, we are not looking for that kind of clientele this was the old school. We take care of the elderly
138 who need more help but do not need nursing homes. The residents we are going to get are elderly people over
139 65 that need help with some use of a wheelchair or walker. We have a nurse to give medications; we will
140 supply doctors for medical attention. They do go outside, go into the community and shop and spend money.
141 They are part of the community. We will have the same deliveries as we do now. I do not think you could tell
142 the difference. To my knowledge there are no 18 wheelers. It will be the same delivery trucks with just more
143 supplies. If we were getting 3 cases of milk we may get 5 cases now. There will not be more traffic we will
144 just take more supplies.

145 7:30pm - Paul Gargiulo arrived to the meeting.

146 Wendy: My concern here tonight is that they want to take more space on the lot.

147 John: Exactly. In all fairness they are making the lot bigger.

148 Wendy: They already did the rezoning; now they are asking for an area variance – what’s next?

149 Genevieve: I want to clarify for the Board and to the public that when this Board makes its determination it is
150 limited to the review of five factors of an area variance.

151 1. Whether there is an undesirable change in the neighborhood character or to nearby properties.

152 2. Whether benefit can be achieved by other means feasible to the applicant.

153 (Can the applicant relocate things so that they do not need a setback)

154 3. Whether the request is substantial.

155 (A huge increase or a small percentage)

156 4. Whether request will have adverse physical or environmental effects.

157 (This would include impacts reviewed under SEQRA, such as traffic or the effect on wetlands or esthetic
158 appearance)

159 5. Whether alleged difficulty is self-created hardship.

160 (The self created hardship does not outweigh everything else)

161 It is a balancing test in that the Board of Appeals shall balance benefit to applicant with detriment to health,
162 safety and welfare of the community.

163 Anthony P: Many of the comments brought up are probably better directed to the Planning Board as this
164 application goes through siteplan.

165 Mike: How do you regulate what kind of people come into your facilities?

166 Genevieve: That question is fair to ask the applicant but it is irrelevant to this Board.

167 Mike R: But it affects the neighborhood.

168 Genevieve: But you cannot discriminate.

169 Mike R: I am not discriminating I am just trying to figure out (did not complete) like he made that comment
170 about having only one wheelchair there and I know there are two, they are both down the center of the street. I
171 understand that you care about the people but it does affect the kids as they walk to school, it affects the
172 neighborhood. I am not discriminating, I agree the state needs these places my only disagreement with this is
173 the **position** (not clear) of it. It is not just that I am living there it is a residential neighborhood. You said you
174 have other facilities, where are they located? In areas like this? I have never seen a facility of this size in a
175 residential neighborhood.

176 Mr. Schonberger: They are not institutionalized we want them to feel like they are living like everyone else.
177 They are human beings who cannot take care of themselves in their own apartments so we are here to assist
178 them. We respect them and take care of them and the government pays us to help them. They have rights to
179 live where ever they like, no one forces them to come to us. People come to see us because they want to know
180 that it is a nice place to bring their mother or their father and they will look at the neighborhood too. They may
181 even knock on your doors and ask if we are good neighbors so we have to make sure we (unclear).
182 The Board went over the balance of interest criteria again.

183 Mike R: Is the parking part of the variance?
184 Stu: We eliminated the need for a front yard setback variance by obtaining a parking waiver from the Planning
185 Board. We have done a parking count which is how we were able to demonstrate that we had enough parking
186 and were able to drop it down to 15 spots.

187 Mr. Cantor: From my perspective I would like to clarify how the Board is charged with making this decision.
188 There is only one test and your test is to balance in your judgment; the benefit to the applicant (if you give the
189 applicant the variance) versus the detriment to the community. These five factors are listed as consideration to
190 be addressed in the process of implementing that balance test. It is not that there are five standards, it is five
191 areas of inquiry that the statute says you are required to consider when you undertake your discretionary
192 balancing test.

193 Also, we would ask that you keep the public hearing open for two reasons
194 1. For us to address what is appropriate for us to address after this evening.
195 2. For these neighbors or any other neighbors have the opportunity, again, to address this.

196 Alan H: When you talk about detriment to the community wouldn't security be a part of that? Say if you have
197 a certain size problem now, potential, and you increase it by 30% or 40%? I know we got into a discussion last
198 time on a fence and I had a question on what type of fence it is.

199 Stu: By security are you addressing the fence or some other issue?
200 Alan: I would say the fence would be part of that security.
201 Stu: The fence is a siteplan issue. The Planning Board has absolutely told us that we need to have a fence.
202 We have picked out a detail which we will submit to them. We understand that the property needs to be
203 fenced and the fence meets their requirements.

204 Alan: Last time you mentioned that the fence was more of a visual type thing.
205 Stu: Right. I am trying to understand what the security concern you have is. This is not the type of security
206 that usually has security concerns.

207 Anthony to Alan: You are bringing up great questions but they would be for the Planning Board.

208 Mr. Cantor or Alan: This is not a facility that houses people who are capable of committing vandalism on
209 other properties or are capable of drunk driving. These are people who are limited in their functioning to the
210 extent that they need assistance, some with eating, some with dressing, some with help with their medicine and
211 some a combination. This is not a question about a fence to keep the people in to protect the neighborhood
212 from people who are going to create some kind of harm or chaos in the neighborhood.

213 Mike R: Sorry, but I have to disagree with that. Because I have had people physically pounding on my door
214 where I thought the glass was going to break. I have seen things in this Town parking lot, people relieving
215 themselves on the trees.

216 Anthony P: I would call the police about that.

217 Paul S: We are bringing up detriment to the neighborhood and he is bringing up people who are a detriment to
218 the neighborhood, this is what we look at. It is a valid point to consider.

219 Stu: This is presumably an allowed use in the zoning that is why they rezoned it. And to the question of
220 where do you see these facilities? You normally see them in residential districts for all of the reasons Mr.
221 Schonberger has said to you. We don't as planners put them off somewhere as though they were and industrial

222 use or a use that needed to be segregated from the community. They are residents, they are parents, they are
223 our brothers and sisters, and they live among us. The security concern you see is with halfway houses or
224 houses with juvenile delinquents or a homeless shelter, those have demonstrable impacts on security. If we
225 checked police records I do not think we would see a lot of data about police calls to this facility.

226 Anthony P: We have heard a lot of good comments and we will take them into consideration.
227

228 A **Motion** to extend the public hearing to the January 2017 meeting was made by John Litts, seconded by Alan
229 Hartman. All ayes.

230

231 **Administrative Business**

232

233 **Minutes to Approve:**

234

235 A **Motion** to approve the minutes from the November 10, 2016 ZBA Meeting was made by John Litts,
236 seconded by Alan Hartman. All ayes with Paul Gargiulo abstained.

237

238 A **Motion** to adjourn was made by John Litts, seconded by Paul Gargiulo. All ayes. 7:52 pm
239