

Pleasantville Zoning Board of Appeals Meeting
May 28, 2015

The Pleasantville Zoning Board of Appeals meeting was called to order at 8:15 pm, on Thursday, May 28, 2015 by Austin Campriello, Chairman. Present were: Austin Campriello, Chairman; Steve Block, Daniel Franklin, Erika Krieger, Members; Robert Hughes, Building Inspector; and Mary Sernatinger, Secretary. Absent: Steven Krauss, Member.

Mr. Franklin explained to the applicants that only four of the five Zoning Board members were present, and three votes in favor of an application are needed for an approval. Mathematically, it is more likely to get three votes out of five than three out of four. He said they could wait until next month to present their applications if they wished. Applicants who present their application this evening can request that the board take an informal, non-binding vote. If the vote is in favor, a formal vote will be taken right away. If it is to deny, the applicant can request that the matter be held over until all members are present. In the meantime, the member who is absent will update himself on the matter and will be prepared to vote.

- (1) **Case No. 2015-07 – Mr. Samuel Holden, 40 Hoanjovo Lane.** Proposal to legalize an existing swimming pool as constructed in violation of Section 185-8.B.(3)(b)(d), “One Family Residence RRR District – Accessory Uses,” regarding a deficient setback to any property line and insufficient screening to abutting property. Present: Manuel Andrade, Architect. Present: Samuel Holden; Tim Lener, Architect.

Mr. Lener said Mr. Holden is a life-long resident of Pleasantville, as was his father. This property has a long history with his family. The pool was built around 1965. The property is five acres. The property abutting it belonged to Mr. Holden’s family over the years.

Mr. Holden explained that in 1965, his Aunt Phoebe Washburn went to his father and suggested they build a pool. She didn’t have the property, but her lot was next to her grandmother’s, and her grandmother gave her a piece of her property so she could build the pool. After some time, his Aunt Phoebe didn’t want to maintain the pool any more and they were going to fill it in. At that time, Mr. Holden said he would take it over, so they gave him the property and the pool. Mr. Holden said he remembers his uncle saying that he had a permit to construct the pool, but it wasn’t ever inspected.

Mr. Lener said that when the property was turned over to Mr. Holden, the pool turned out to be two feet off. Also, there is supposed to be a buffer between the two properties, which Mr. Holden plans to install. He said he would continue the fence as a buffer.

Mr. Lener said the fence around the pool also has to be brought up to Code.

Mr. Franklin suggested adding a stipulation of approval that the applicant would install the fence, but Ms. Krieger thought that request could be withdrawn since he was going to comply with the

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buffer requirement anyway. However, Mr. Campriello preferred to deny the variance for the screening.

Mr. Hughes said the setback requirements are based on today's standards, not 1960 standards, since there is no record of when the pool was actually built.

On a motion by Ms. Krieger, seconded by Mr. Franklin and unanimously carried, the Public Hearing was closed.

Based upon a review of the application of Mr. Samuel Holden to legalize an existing swimming pool as constructed, the Zoning Board of Appeals determined that it is the only Involved Agency and that the Proposed Action is classified as a Type II Action under Part 617.5 of the State Environmental Quality Review Act regulations. Therefore, this application requires no further processing under SEQR.

A motion to grant the variance for the setback and deny the variance for the screening was made by Ms. Krieger and seconded by Mr. Franklin. VOTING took place as follows:

Ms. Krieger	-	Approve the motion, because she thought two feet was de minimis and a variance should not be granted for screening.
Mr. Franklin	-	Approve the motion.
Mr. Campriello	-	Approve the motion. Mr. Campriello said he agrees with Ms. Krieger. He said that even though the applicant is related to the property owner next door, properties change hands, and it is good to have screening.
Mr. Block	-	Approve the setback variance, deny the screening variance.
Mr. Krauss	-	Absent.

(2) **Case No. 2015-08, Mr. & Mrs. Ethan and Christyn Knecht, 194 Bedford Road.**

Proposal to construct a new driveway in the side yard and parking area in the rear on-site in violation of Section 185-36.B.(1), "Schedule VII, Off-Street Parking & Loading Requirements," regarding excessive development coverage. Present: Ethan Knecht.

Mr. Knecht said he and his wife came to Pleasantville two years ago. They are both public school teachers in the Bronx. This house fit their budget. Prior to buying it, Mr. Knecht said he contact Mr. Testa and the County to make sure they would be permitted to build a small driveway on the side of their property, and both gave a verbal okay. The Knechts bought the house. In August, they began the process of putting in the driveway. They drew up plans and consulted with the Building

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Inspector, made changes to the drainage plan, and started installing the driveway. Then Mr. Hughes told them they needed approval from the County for the curb cut since it is a County road, so he stopped work and went to the County. They told him they have to be able to pull out of the driveway frontwards, so now they have to extend the driveway into the back yard. The County would not grant a variance for this requirement.

Mr. Franklin said he has lived on Bedford Road for many years and he agrees that it is sometimes dangerous when people back out of their driveways.

Andy Goodman, the Knechts' next door neighbor, said people back out of their driveways even if they are able to turn around. He thought it was ridiculous to force the Knechts to abide by a different standard, and they should have the same privilege as everyone else.

Mr. Franklin said that as much as he hates to lose green space, he thinks it is smart to require people to come out of their driveways frontwards.

An informal, non-binding vote was taken as follows:

Mr. Block	-	Approve, based on the balancing test.
Mr. Franklin	-	Approve. This is a substantial variance, but the circumstances make it unique.
Mr. Campriello	-	Approve. He agreed with Mr. Franklin.
Ms. Krieger	-	Approve. The substantiality of the variance is just one of the criteria to be considered in granting a variance; and clearly, the benefit to the applicant outweighs any detriment to the community.
Mr. Krauss	-	Absent.

On a motion by Mr. Franklin, seconded by Ms. Krieger and unanimously carried, the Public Hearing was closed.

WHEREAS, on May 28, 2015, on a motion by Ms. Krieger, seconded by Mr. Block, and carried, the Zoning Board of Appeals as Lead Agency under SEQR, determined that the application of Mr. and Mrs. Ethan and Christyn Knecht to construct a new driveway in the side yard and parking area in the rear is an Unlisted Action because it is not classified as either a Type I Action or a Type II Action under Parts 617.4 or 617.5, respectively, of the State Environmental Quality Review (SEQR) Act regulations. The Zoning Board of Appeals determined that the Proposed Action will not have a

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significant effect on the environment and adopted a Negative Declaration under the State Environmental Quality Review Act (SEQR), which is incorporated herein by reference.

VOTING took place as follows:

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| Mr. Block | - | Approve, based on the balancing test. This is an unusual property, only 35 feet wide, so it would require a variance in order to proceed with construction of the driveway as designed. It will result in a safer environment on the County road. |
| Mr. Franklin | - | Approve, for reasons stated earlier and he agreed with Mr. Block's statement. |
| Mr. Campriello | - | Approve, for reasons stated earlier and he agreed with Mr. Block's statement. |
| Ms. Krieger | - | Approve, for reasons stated earlier and she agreed with Mr. Block's statement. Also, this will enable the applicants to comply with a regulation that is being imposed upon them by a higher level of government. |
| Mr. Krauss | - | Absent. |

- (3) **Case No. 2015-06, York Funding Development, 98 Washington Avenue.** Proposal to renovate and alter a previously approved three-story mixed-use structure in violation of Section 185-19.C.(5)(b), "Central Business A-1 District," regarding excessive maximum permitted residential density; Section 185-36.B.(7), Schedule VII, "Off Street Parking & Loading Requirements," regarding an insufficient number of parking spaces being provided on site; and Section 185-36.B.(6), Schedule VI, "Bulk Requirements," regarding excessive building coverage. *Continued Public Hearing.* Present: Jorge B. Hernandez, Architect.

Mr. Campriello said that he was not present at the previous meeting when this matter was discussed, but he had listened to the recording, was familiar with what transpired, and was prepared to participate in the review.

Mr. Hernandez said they are requesting a variance to have 14 apartments, because that is financially the most feasible for developing the project.

Mr. Hernandez said they have found a fire-rated window that can be installed on the side, which they will add to family rooms on the second floor. They redesigned with interior so that all living areas will have external light. The windows are not operable. They are 4-inch thick glass.

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Mr. Franklin had reviewed the financial information that the applicant submitted at the previous meeting. He asked why there is 100 percent coverage when the approval was for 80 percent coverage. Mr. Hughes explained that the previous Building Inspector did not consider the open area in the center to be coverage, but Mr. Hughes does consider it coverage since there are columns there.

With regard to the number of parking spaces, Mr. Hernandez said that the layout in the original plan included the required number of parking spaces, but it did not work. It is only possible to provide 19 parking spaces. Mr. Hughes said 25 parking spaces are required.

Mr. Franklin noted that the calculations show the retail space on the first floor was reduced to 750 square feet, which he considered small for a bank. Mr. Hernandez explained that the original plan did not have a lobby. People had to walk along the driveway to get to the elevator. Mr. Franklin thought the amount of money expected for the retail space was low. Mr. Hernandez said it is based on \$30 per square foot.

Mr. Hughes said the original project did not come before the Zoning Board because there were only seven apartments and they provided the number of parking spaces that were required.

Mr. Hernandez said there would be five one-bedroom apartments and two two-bedroom apartments on each of the 2nd and 3rd floors.

Mr. Franklin thought apartments in that location might appeal to Pace students or, Mr. Campriello added, to single seniors. Ms. Krieger noted that such tenants would be less likely to have cars.

An informal, non-binding vote took place as follows:

Ms. Krieger said she inclined to approve the variances. She acknowledged that a variance for six parking spaces (19 provided, 25 required) is significant. But she noted that the parking requirement would be greater (26) if the second floor were offices rather than apartments, and some tenants might not have cars. With regard to the coverage issue, she thought it was acceptable since the building is located downtown and it backs up to the railroad tracks.

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Mr. Block was also inclined to approve. He said this project unfortunately had a lot of mistakes from the get-go. The applicant is looking to make some positive changes to the building. He was prepared to approve the parking variance because the situation is not the applicant's fault. With regard to coverage, Mr. Block said it is what it is. He agreed with Mr. Hughes' interpretation that the open area should be included in the coverage calculation. The density variance is very large, but the building hasn't caused any detriment to the community.

Mr. Campriello said when this building was constructed, he remembers wondering why he would have approved it. But the building is there, whether he likes or not. He did not believe anyone would tear it down. The density and the parking insufficiency is not this applicant's doing. If this were on a clean slate, he would not approve it.

If the Zoning Board grants variances for the existing building for coverage, density and parking, Mr. Block wanted to know if those variances could be applied to a new building if the existing one were totally removed and reconstructed. Mr. Franklin said if they change the configuration by tearing the building down, it would be like starting over. Ms. Krieger said the findings of fact would be significantly different, so the variances granted for the existing building would become null and void. Approval is based on a certain likely occupant load. Mr. Campriello agreed. If the building burned down, they couldn't utilize variances granted for this building to build something different. Ms. Krieger added that approval is based on a specific layout. Any changes would require approval from the Zoning Board.

On a motion by Ms. Krieger, seconded by Mr. Franklin and unanimously carried, the Public Hearing was closed.

WHEREAS, on May 28, 2015, on a motion by Mr. Franklin, seconded by Ms. Krieger, and carried, the Zoning Board of Appeals as Lead Agency under SEQR, determined that the application of York Funding Development to renovate and alter a previously approved three-story mixed-use structure at 98 Washington Avenue is an Unlisted Action because it is not classified as either a Type I Action or a Type II Action under Parts 617.4 or 617.5, respectively, of the State Environmental Quality Review (SEQR) Act regulations. The Zoning Board of Appeals determined that the Proposed Action will not have a significant effect on the environment and adopted a Negative Declaration

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under the State Environmental Quality Review Act (SEQR), which is incorporated herein by reference.

VOTING took place as follows:

Ms. Krieger	-	Approve, based on her prior statements in her non-binding vote.
Mr. Campriello	-	Approve, based on his and his colleagues' statements.
Mr. Franklin	-	Approve, for reasons stated by his colleagues.
Mr. Block	-	Approve.
Mr. Krauss	-	Absent.

(4) **Minutes**

The minutes of the April 30, 2015 meeting were accepted with corrections from Ms. Krieger and Messrs. Franklin and Hughes.

Respectfully submitted,

Mary Sernatinger
Secretary

These minutes reflect one correction by Mr. Franklin and are ready to be FILED.