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ZONING BOARD OF APPEALS MEETING

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MARCH 3, 2021

A Zoning Board of Appeals Regular Meeting took place on Wednesday, March 3, 2021 at 7:00 P.M. at Village Hall, 9 Fairlawn Drive, Washingtonville, New York.

PRESENT:

Chairperson Maureen DeVinko; Zoning Board of Appeals members Denni Lozza; Merald Drayton; Steven Presser.

ALSO PRESENT:

Attorney Christopher Kleister; Building and Code Enforcer John Terry, Mayor Joseph Bucco & Trustee Richard Calore.

PLEDGE OF ALLEGIANCE TO THE FLAG:

Chairperson Maureen DeVinko led the Pledge of Allegiance to the Flag.

ORANGE COUNTY BAGEL – 32 WEST MAIN STREET:

A representative from Fellenzer Engineer representing Brent Kunis of Orange County Bagel announced that he is thanking the Zoning Board of Appeals for granting the determination with all of the variances. The Engineer further stated that the survey was a little bit different than our map in which on our map the back lot line is 109 feet to 109.25 feet. It was drawn at 115 feet even though it was labeled 109 feet. It made the lot seem bigger by 6 feet than it was so that affected the lot area variances. That affected the side yard variances and it also affects the coverage of the lot so we were under 25% with our larger lot which was not a realistic number and now that we have the actual number, we are over the 25%. We have marked up the determination that we would ask for this additional coverage variance and change the other two side yard and lot area variances to reflect the actual survey and correct map.

Attorney Christopher Kleister added the Board provides the Village with notice on this project for certain requirements that are now being changed. We are going up in size, relative to what the variances would be. In order for the Board to change the application, proper notice has to be afforded to the residents to see what impact they would provide. Those three (3) variances that have to change will have to be a new application for those determinations. The area variance for square footage for the lots to be reduced, and both side yards. We do not want to set a precedent by this Board that allows applications to change numbers after the determination without a new application. The applicant can reappear at the next Zoning Board of Appeals Meeting.

RESOLUTION – APPLICATION – 32 WEST MAIN STREET – ORANGE COUNTY BAGEL:

Chairperson Maureen DeVinko made a motion, seconded by Zoning Board of Appeals member Denni Lozza and adopted to authorize approval for the Applicant, Brent Kunis, to fill out a new application in regard to the changes in the (3) variances and resubmit back to the Zoning Board of Appeals; said Resolution passed by a unanimous vote of the Zoning Board of Appeals. 4 Ayes, 0 Nays, 0 Abstentions.

DISCUSSION – 1 NICOLL STREET – TWO (2) FAMILY DWELLING:

The Attorney representing the Applicant for 1 Nicoll Street stated this is the R100 district but in one respect you must refer to the RA District and it says that you require a frontage requirement of 225 feet when you are in the RA Zone. The Frontage Requirement in the R100 where we are located and this property has 160 feet and then in addition, we were seeking for the side yard variances and in the rear yard and in that respect, the building inspector has determined that the RA requirements should apply and that is part of the interpretation for the board, we are saying that we are in the R100 Zoning District so the R100 requirements could apply. For instance, if you go to your Zoning Code at 315-15 which is the R100 requirements; it says that within the R100 District no building or structure should be erected unless it complies with the following requirements, the R100 requirements. These are area variances. One of the documents that we submitted yesterday, was a letter from a Local Realtor that said if this residence were rented as a single-family residence the rent would be between \$2600 and \$2800 a month. The applicant made an attempt to obtain Building Department records and was not able to because the Building Department would not provide the municipal searches. They will not provide records unless the smoke detector affidavit is filled out.

Chairperson Maureen DeVinko questioned did your client have a Realtor in the purchase of this home?

The Applicant's Attorney responded no.

Chairperson DeVinko commented did the purchaser deal directly with the bank?

The Applicant's Attorney replied that the property was in foreclosure. The applicant stated when a house is in foreclosure there is no access to inside of the home.

Chairperson DeVinko adds that she works with many homes in the Blooming Grove area that are of significant less square footage and in the \$3,000 range per month in Blooming Grove. The Chairperson questioned if the Applicant is splitting the house into two sections, and renting the 800-900 square feet for \$2,000 a month. The Chairperson also added there is documentation that the previous owner was told it was not a two (2) family and they could not rent it, list it or sell it as a two (2) family.

The Applicant's Attorney indicated his client was not aware of this and the official tax bill lists it as a two (2) family dwelling.

Chairperson Maureen DeVinko commented it seems the Applicant is pulling pieces from R100 and RA to blend them together and make it fit.

The Applicant's Attorney added that it is a bit confusing but we are not looking to blend it; it is your Village Code that blends it together.

Chairperson DeVinko explained your application has to be for one or the other request.

The Applicant's Attorney added there is no third (3rd) apartment and there is no intention to do so and it is a (2) two family home.

Chairperson DeVinko indicated the Applicant put a wall up making it a (3) three family home.

The Applicant responded that it is not a (3) three family home and a wall was not put up.

DISCUSSION – 1 NICOLL STREET – TWO (2) FAMILY DWELLING (CONTINUED):

Chairperson DeVinko explained the Zoning Board will be using the R100 Code and she is not ready to vote on this matter. Attorney Christopher Kleister said if you look in the Zoning Law under R100 it tells you what the permitted uses in that district are. If you look under 315-15-16 it tells you that a special exception use is allowed for any use committed in the RA District. In the district, you can have as a special exception use, the (2) two-family dwelling with certain setbacks, however, there is an application before the village that allows a special exception coming from another district, and do you use the setbacks in that district. Further discussion was table until the March 17, 2022 Zoning Board of Appeals Meeting.

RESOLUTION – TABLING OF 1 NICOLL STREET:

Chairperson Maureen DeVinko made a motion, seconded by Z.B.A. member Denni Lozza and adopted to authorize the approval of tabling the application of 1 Nicoll Street until the March 17, 2022, Zoning Board of Appeals Meeting; said Resolution passed by a vote of the Zoning Board of Appeals. 3 Ayes, 0 Nays, 1 Abstentions.

PUBLIC HEARING – 36 NORTH STREET:

Chairperson Maureen DeVinko announced that the Village of Washingtonville Zoning Board of Appeals stated: Please take notice that the Zoning Board of Appeals of the Village of Washingtonville, Orange County, New York will hold a Public Hearing on the application of North 36 LLC to permit a fourth (4th) dwelling unit to be utilized at 36 North Street, Washingtonville, New York, further defined as 107-2-63, said property being located in the RM District of the Village of Washingtonville, the applicant is seeking the following approval from the Zoning Board of Appeals. One is a Lot Area Variance pursuant to 175-25.A.1.A permitting the minimum lot area to be 8,250 square feet for a proposed fourth (4th) dwelling instead of the required 10,000 square feet per dwelling required. A determination that pursuant to Section 175-109.C for a Non-conforming building or structure that is not devoted to a non-conforming use may be reconstructed, structurally altered, restored or repaired in whole or in part. The Public Hearing will be held on the third (3rd) day of March 2021 at 7:00 P.M. at Village Hall Meeting Room, 9 Fairlawn Drive, Washingtonville, New York at which time all interested persons will be given an opportunity to be heard.

Attorney Christopher Kleister added the design is different from when submitted to the Zoning Board. (The Board could not hear the Applicant over the Zoom call).

RESOLUTION – REFER TO PLANNING BOARD – 36 NORTH STREET:

Chairperson Maureen DeVinko made a motion, seconded by Zoning Board of Appeals member Denni Lozza and adopted to authorize the approval of the Applicant of 36 North Street to return to the Planning Board regarding this matter; said Resolution was passed by a unanimous vote of the Zoning Board of Appeals. 4 Ayes, 0 Nays, 0 Abstentions.

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MARCH 3, 2021

ADJOURNMENT:

Chairperson Maureen DeVinko made a motion, seconded by Zoning Board of Appeals member Denni Lozza and adopted to adjourn the March 3, 2021 Zoning Board of Appeals Meeting; said Resolution passed by a unanimous vote of the Zoning Board of Appeals; 4 Ayes, 0 Nays, 0 Abstentions.

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RESPECTFULLY SUBMITTED,

SOPHIA FOLEY

CLERICAL ASSISTANT