



VILLAGE OF DOBBS FERRY

112 Main Street
Dobbs Ferry, New York 10522
TEL: (914) 231-8500 • FAX: (914) 693-3470

RESOLUTION 7-2023

**RESOLUTION OF THE ZONING BOARD OF APPEALS
OF THE VILLAGE OF DOBBS FERRY IN THE MATTER OF THE APPEAL AND
APPLICATION OF JOSEPH LOCASCIO, ESQ. (“OWNER”) OF PROPERTY
LOCATED AT 0 NORTH MOUNTAIN DRIVE, DOBBS FERRY, N.Y., (“PROPERTY”)
WHICH APPEAL IS FROM A DECISION OF THE BUILDING INSPECTOR OF THE
VILLAGE OF DOBBS FERRY AFFECTING THE PREMISE DESIGNATED ON THE
TAX ASSESSMENT MAPS OF THE VILLAGE OF DOBBS FERRY AS SECTION 3.10,
BLOCK 1, LOT 3 IN THE OF-2, ONE FAMILY RESIDENTIAL 2, ZONING DISTRICT.**

WHEREAS, this application involves property located at 0 North Mountain Drive, Village of Dobbs Ferry, County of Westchester and State of New York and designated as Section Block and Lot 3.10-1-3, in the OF-2, One Family Residential 2, Zoning District; and

WHEREAS, the Project is classified under the State Environmental Quality Review Act (SEQRA) implementing regulations as a Type II Action, in accordance with 6 NYCRR §617.5(c)(37); and

WHEREAS, the Owner requests alternative relief of either (1) an interpretation of that portion of the Building Inspector’s July 27, 2023, decision regarding the application of net lot area as opposed to gross lot area when determining maximum Lot Coverage by Building, or (2) a 9.46% variance for maximum Lot Coverage by Building per Dobbs Ferry Village Code Chapter 300, Zoning and Land Use; and

WHEREAS, specifically, the Building Inspector determined that the definition of “Net Lot Area” should be applied to the calculation of Lot Coverage by Building; and

WHEREAS, the Building Inspector had applied the following definition of “Lot Area, Net” to the “Building Coverage” calculations for Owner’s Project, while the Owner contended that the definition of “Lot Area, Gross” is the appropriate application for determining maximum Lot Coverage by Building:

BUILDING COVERAGE

The area of a lot covered by or permitted to be covered by principal and accessory building(s) and structures on the ground level. Percentage of building coverage is the area of principal and accessory building(s) at the ground level divided by the lot area and expressed as a percentage of the lot area.

LOT AREA, GROSS

The total square footage of a lot prior to any reductions pursuant to this chapter.

LOT AREA, NET

The area of the lot after any reductions pursuant to this chapter have been deducted. For the purposes of calculating lot area, 1/2 of the area of the lot with slopes measuring 25% or greater shall not be included in the total lot area, and 1/4 of the area of the lot with slopes measuring at least 15% but less than 25% shall not be included in the net lot area.

WHEREAS, the ZBA has reviewed the application materials including the following:

1. ZBA application dated March 22, 2023;
2. Building Inspector denial letter dated March 21, 2023;
3. RFA & Associates Architects plans dated June 3, 2022;
4. Referral Resolution from the Planning Board dated April 12, 2023; and

WHEREAS, pursuant to the applicable provisions of law and after due notice and publication, a public hearing was held on May 10, 2023, at which time all those wishing to be heard were given the opportunity to be heard, and the public hearing was closed on May 10, 2023; and

WHEREAS, members of the ZBA are familiar with the property and its location.

NOW, THEREFORE, BE IT RESOLVED, the ZBA has investigated this application and has given its full consideration to the testimony presented at the hearing and hereby finds that based upon the findings, reasoning, and conditions set forth below the application to the ZBA for appealed is granted in favor of the applicant in accordance with the plans submitted.

1. The ZBA finds that the definition for “Building Coverage” in §300-14 of the Village of Dobbs Ferry zoning code is ambiguous, as it does not clearly establish whether gross nor net lot area should be applied when calculating for maximum Lot Coverage by Building.
2. The ZBA also finds that the courts of New York have regularly and consistently found that (1) zoning codes and regulations must be strictly construed and (2) any ambiguity must be construed against the municipality and in favor of the property owner. Therefore, the ZBA rules that the gross lot area should be applied to this application, negating the need for a variance for maximum Lot Coverage by Building.
3. The ZBA further finds that the determination for this application does not set any precedent for subsequent applications, and each will be determined on its own merit and circumstances.
4. In light of the above, it is unnecessary for the ZBA to address the alternative variance relief.

This resolution was duly made by the Zoning Board of Appeals on the 10th day of May 2023.

Motion by: Chairman Hofmann Seconded by: Jeremy Gutman

CHAIRMAN HOFMANN	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
BRUCE GOMBOS	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JEREMY GUTMAN	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JON MAASS	<input type="checkbox"/> AYE	<input checked="" type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
JOSEPH CAPASSO	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
VOTE TOTALS	<input type="text" value="4"/> AYE	<input type="text" value="1"/> NAY	<input type="text" value="0"/> ABSTAIN	<input type="text" value="0"/> RECUSE	<input type="text" value="0"/> ABSENT/EXCUSED
RESULT:	MOTION: PASSES				

I hereby attest that the application was approved by the Zoning Board of Appeals at its May 10, 2023, meeting, and that I have been authorized to sign this Resolution by decision of the Zoning Board of Appeals.



Peter Hofmann, Chairman

Date: June 1, 2023