

DRAFT MINUTES – NOT TO BE USED AS AN OFFICIAL DOCUMENT

A regular meeting of the Zoning Board of Appeals was held on January 11, 2023.

Present: Chairman Peter Hofmann, Jeremy Gutman, Joseph Capasso, Dan Roemer/Building Inspector, Trustee Jessica Galen, and Ms. Valerie Monastra/Village Consulting Planner.

Excused: Bruce Gombos, Jon Maass.

Chairman Hofmann called the meeting to order.

Chairman Hofmann stated that today's board members reviewed the minutes for the April 13th meeting and that no corrections were needed. Chairman Hofmann moved to accept the minutes as presented.

Motion by Chairman Hofmann, seconded by Mr. Gutman, to approve the minutes as presented.

1. 0 North Mountain Drive –Continuation of Public Hearing for proposed plan to construct a new home at vacant lot

Chairman Hofmann communicated that the board received a referral from the planning board late yesterday. It said that the planning board recommended based on the plan presented that the applicant should continue their proceedings before the Zoning Board of Appeals for its proposed variances. Chairman Hofmann relayed that the planning board was instead asked to show if this was an approvable project. And though the board has dealt with a similar application for Hilddale and Briary where this board was handling a variance along with some of the planning board's usual duties, this was possible because it was more straightforward and within their capability to do so. Unfortunately, Zero North Mountain is not as straight forward as the previously named projects. Furthermore, a series of meetings were held including open meetings for the public so that the public could be participating, asking questions, having their issues addressed, either by the board or the applicant. This situation is different and because this is an important variance, it's important that the public be heard. The venue for that would not be at the zoning board of appeals, but rather at the planning board because those issues will be decided there.

Ms. Monastra explained that they have been working with the planning board on this proposal. The planning board believes that this site is potentially developable for a single family home. But before they have the applicant spend money to do additional work, including on the stormwater and a number of other items on the study, they want the Zoning Board of Appeals to consider the variances.

Chairman Hofmann replied that they won't approve something where a house can't be built.

Ms. Monastra relayed that that was the reason why the planning board decided to move the project back to the to the Zoning Board of Appeals.

Ms. Kristin Wilson then introduced herself as representing the property owner along with Mr. Paddy Steinschneider. Ms. Wilson continued that they've attended the last three planning board meetings and that the ZBA's list of questions were received by the planning board. Also, they asked for and received a number of reports from Mr. Steinschneider and consultants dealing with stormwater retention, erosion and sediment control, the height and location of retaining walls percolation tests, and other calculations to verify that a single family home could be built on this lot and preserve the sense of steep slopes. So though not full site plans, they are pretty detailed site plans to give the planning board the sense that this is a viable lot. But before the removal of rock is started, or putting the plans in much detail, a determination from the board is needed, that it's a buildable lot and/or receives a variance. So the questions that were

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posed to the planning board were carefully considered, and we provided what the planning board believes is sufficient information to satisfy their concerns. That the environmental issues and concerns can be addressed either through mitigation or alternative construction methods, or the like. Ms. Wilson feels that the planning board is at the limits of their jurisdiction until they know they have a buildable lot from a zoning standpoint. So the planning board isn't comfortable going to a public hearing until they know that it's possible to move forward with a buildable lot. So a lot of the questions the zoning board raised were addressed and vetted by the planning board over the last three months.

Mr. Gutman voiced that he thinks there's a communication problem, because those questions were asked. And the planning board didn't communicate an answer to us. So we're being asked to treat it as if we got the response, because they responded at a meeting. But they need to communicate specific answers to the specific questions.

Ms. Monastra suggests this issue can be brought back to the planning board for them to have specific responses to each and every question.

Chairman Hofmann replied that he doesn't think it's needed for each and every question to be answered, rather for the planning board to tell us that this is an approvable project. They do that when they vote.

Ms. Wilson expressed that legally they can't vote because they don't have jurisdiction to hear an application that hasn't been determined to be a buildable lot from a zoning perspective yet. So before a vote can be made by the planning board, we had one hurdle to pass by your referrals to them, asking them to look at these things. They looked at them. They went back and forth about the wording of the resolution. Last week, they essentially said, Okay, let it go forward. And Ms. Monastra and the board went back and forth, and a sentence or two were agreed upon. That was the first hurdle the second hurdle now is to pass here and either have a variance granted or considered a buildable lot back from 1989. And then we'll have to go back to the planning board for full site plan review, and we went into quite a bit of detail they had a lot of questions, but we provided answers to them to their satisfaction that they felt we had enough information to come back to see you.

Ms. Monastra asked Chairman Hofmann if the zoning board had the plans that the resolution was based upon, if the building department sent them for review. Chairman Hofmann responded that no plans were received, and that they were out of the loop.

Mr. Steinschneider said that he was asked to retrieve the submitted plans. He continued that though it would've been helpful if he showed the plans in question so it was clear that they're not just sketches but plans from Hudson Engineering. They completed the stormwater study with test pits that went down eight feet and have a perk of 14 inches in an hour, so there's no issue with the storm drainage on site.

Mr. Roemer responded that Anthony was interested in more information on that issue.

Mr. Steinschneider replied that if Anthony was there, he would say it's a matter of details between the engineers. It's not a matter of whether you build or not, but which way should you build. Should they be galleys or Caltex. Caltex aren't recommended on the slope, but it's not needed to build on a slope and can build it level. Yet he may still suggest galleys, and if so, we'll build galleys. Either one is a good solution that handles 100% of the stormwater runoff. So that's being handled with the engineer who has submitted his documents which have been reviewed by the Village.

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Mr. Steinschneider also reviewed the six identified concerns with the site in question for the Board. Stormwater management, vehicular safety, rock removal, size of the house, site stability, and landscaping.

Ms. Wilson asked if the Board would like them to receive site plan approval on the condition that variance is granted, and that the zoning board hold off on any type of furthering the public hearing or review process itself until the site plan has been fully approved by the planning board.

Ms. Monastra replied affirmatively, and Chairman Hofmann confirmed that they should take on the issue of the variance after site plan approval.

2. 164 Palisade Street – Public Hearing for proposed plans to construct an addition and alteration to existing house

Chairman Hofmann states that the next item on the agenda is 164 Palisade Street for a number of a different variances, many of which are pre-existing and that Mike Lewis Architects will be heard as application. Chairman Hofmann continues that the application is for the following variances. 164 Palisade Street required front yard setback is 15 feet setback. Front yard setback is 1.5 inches, therefore requiring a 13 foot seven inch variance for the front yard. Regarding 164 Palisade the side yard requirement is 10 feet. The proposed addition setback is five feet two inches, thus requiring a variance of four feet 10 inches at the side yard. The required combined set setback is 20 feet and the combined set yard setback is 15 feet two inches, requiring a variance of four feet 10 inches. This is a corner lot so with regard to 87 Cedar Street, the required rear yard setback is 25 feet and the proposed is five feet 10 inches requiring a variance of 19 feet two inches on the rear yard. With 87 Cedar the required side yard is 10 and the proposed is two feet four inches requiring a variance of seven feet eight inches and the maximum lot yard lot coverage is 40% and the proposed is 41.8% and that requires a variance of 1.8%

Mr. Gulick communicated that he's there to represent Michael Lang and 164 Palisade Street, LLC. He continued that the location is on the corner of Cedar and Palisade and has two buildings. 164 Palisade has two dwelling units while 87 Cedar has one model unit and are proposing a fourth dwelling unit in the lower level of 164 Palisade, along with an addition on the other side of Palisade. They're attempting to restore some of the character that the building used to have. Though they went to the library and historical society for influence on the project, but they ultimately went up and down Palisade for guidance on building structures, materials, etc. After their research, they decided to take two areas in, while adding about eight feet to the end of the building for a stair tower to go up.

Chairman Hofmann then asked if the proposed addition is set back from the street and if it's at the line of the building that's being constructed next door.

Mr. Gulick replied that it's being built very close to it. That 156 Palisade has a 10 foot setback from the principle building and the secondary setback is nine feet one inch.

Mr. Gutman asked if the height of the addition is the same as the building.

Mr. Gulick responded that it will be the same elevation and are more looking to push back, instead of raise the height of the building so it will line up with the street. Mr. Gulick continued that the sub-cellar will be used for storage, but the basement is where more work will be done, which is street level on Palisade. There's a large retaining wall on Palisade Street and are proposing a transition buffer zone and you can then walk up into the lower proposed dwelling space from Palisade. You can also walk back around and through the site to enter, which you can't do currently. There was a former garage there, so it's just

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unused space. So ultimately we're just pushing back, which is the extent of the addition. On the first level we're removing the porch and opening it up and connecting the trellis that goes between them and the three units will have entries on that level. In the middle space the yard is being restored since it's currently not in great shape. On the second floor, it's the first floor of a two floor unit with two bedrooms. The third floor we're adding dormers and replacing them with smaller units since the window comes out 3.5 feet onto the street by the sidewalk. The building has yellow aluminum siding and we're proposing nicer traditional siding. The changes are with the height variances, since we want to match the slope of the roof and for the side of the structure.

Mr. Roemer corrected and confirmed that the third variance is for the rear yard setback because they picked the front on Palisade St.

Mr. Gulick concluded the discussion about the Cedar Street elevation, and moved on to the Palisade Street elevation. There's an existing large wall, and we're taking that level down, so it can open up off the street and to the apartment. It will also go up around the side of the building and through the back so you can enter in both places.

Chairman Hofmann then asks how far down the wall was going.

Mr. Gulick replied that the wall has to be pushed out further because the railings and ramp for the sidewalk are there. Mr. Gulick also states that because of the Palisades guidelines talks about the second story being pushed back, so they recessed the third floor for a balcony which opens it up further, since it's a small window looking out to the river. And the side elevation of the south elevation, which continues and wraps around with a small dormer on 87 Cedar, then a larger dormer and the addition on 164 Palisade. When you come in from Palisade, and where the former large wall was, but now you can come straight up and into that sixth place unit entry as well as around to the side of the building. We're really adding a little less than nine feet onto where it was initially, and raise the roof a little from expectation.

Chairman Hofmann questions if this is something for Mr. Roemer or for Mr. Gulick, but the character guidelines for Palisade Street, what do they encompass? Is it mainly lot coverage? He continued that he remembers it being an issue but never heard how they were resolved.

Mr. Gulick responded that so many of those houses are right up against the street. They also talk about entry zones that are transitions from the street into the dwelling unit. They don't want a huge front that's 40 feet wide, they talk about horizontality so trying to accentuate the horizontal lines that are already there.

Mr. Roemer adds that most of the variances are for altering and non-conforming or extending a little. The coverage is the only one that.

Chairman Hofmann replied that if he remembers correctly, that it was an arbitrary number that was picked as an approximation.

Mr. Roemer agreed that it was true.

Mr. Gutman asked that, though this may be a question for Mr. Roemer also, but if there was a parking issue.

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Mr. Roemer replied that they're adding a unit, and the three units that are there don't have parking now, so no parking would have to be added. But with the additional unit they will have to add parking or pay the pile up fee.

Mr. Gulick also added that they're across the street from the 99 Cedar Street lot, and if it will make a difference in terms of parking.

Mr. Roemer stated that he doesn't think so since it's a municipal lot.

Chairman Hofmann stated that with the railings, the property has actually lost some parking.

Mr. Gulick said that they originally intended to leave room on the driveway side for parking, but they had to come down several feet.

Chairman Hofmann added that it's probably a good thing, as it allowed you to do something nice.

Chairman Hofmann then asks if anyone on Zoom or in person would like to be heard, then asks about the #4 variance for 87 Cedar Street and how it looks very large and wants to know if it's because it's a rear yard.

Mr. Gulick replied that he asked Mr. Roemer previously, and it was when the height of the 87 Cedar roof was raised, it triggered those two setbacks.

Mr. Roemer stated that since it's a corner lot, they can pick their frontage. So they picked their frontage as Palisade Street, so that's why that one looks so large. And that if they were two SBLs and it was one lot.

Chairman Hofmann added that the property that's available is quite substantial, especially being on the hill like you are.

Motion by Mr. Gutman, seconded by Chairman Hoffman to close the public hearing for the application of 164 Palisade Street.

CHAIRMAN HOFMANN	<input checked="" type="checkbox"/> AYE	<input 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
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 type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
BRUCE GOMBOS	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
VOTE TOTALS	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
RESULT:	MOTION: PASSES				

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Mr. Gutman moved to approve the application and all of the variances and states he thinks this is a nice improvement to this particular property. It'll actually fit the character and what we'd like the character of that corner to be, better than the current structure.

Motion by Mr. Gutman, seconded by Mr. Capasso, that the application be granted in accordance with the plan submitted.

CHAIRMAN HOFMANN	<input checked="" type="checkbox"/> AYE	<input 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
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 type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
BRUCE GOMBOS	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
VOTE TOTALS	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
RESULT:	MOTION: PASSES				

Our Planner is directed to prepare a written decision reflecting the deliberations and vote of the Zoning Board on this matter. The written decision will be signed by the Chair and filed with the Village Clerk with a copy attached to tonight's meeting minutes.

Mr. Gulick asked about some possible changes or adjustments to the project.

Mr. Roemer said you would have to go to the Planning Board, you're going 10 feet out and 10 feet up because of the addition, and make one submission for everything. And can get a new application for the joint board from the building department.

Motion by Chairman Hofmann, seconded by Mr. Capasso to adjourn the meeting.

CHAIRMAN HOFMANN	<input checked="" type="checkbox"/> AYE	<input 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
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 type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
BRUCE GOMBOS	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input checked="" type="checkbox"/> ABSENT/EXCUSED
VOTE TOTALS	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
RESULT:	MOTION: PASSES				

The meeting ended at 8:41pm.

RESOLUTION

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**RESOLUTION OF THE ZONING BOARD OF APPEALS
OF THE VILLAGE OF DOBBS FERRY IN THE MATTER OF THE APPEAL AND APPLICATION OF MICHAEL
LANG (“OWNER”) OF PROPERTY LOCATED AT 164 PALISADE STREET, 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 3.80, BLOCK 40, LOT 31 IN THE MDR-2, MIXED DENSITY
RESIDENTIAL 2 ZONING DISTRICT.**

WHEREAS, this application involves property located at 164 Palisade Street, Village of Dobbs Ferry, County of Westchester and State of New York and designated as Section Block and Lot 3.80-40-31, in the MDR-2, Mixed Density Residential 2, Zoning District; and

WHEREAS, the property is located on a corner lot that contains two residential buildings, each with a separate mailing address, 164 Palisade Street and 87 Cedar Street; and

WHEREAS, the Owner sought relief from the Chapter 300, Zoning and Land Use, of the Village of Dobbs Ferry, New York and requests a front yard setback, side yard setback, combined side yard setback, front yard setback, and maximum lot coverage by building variances to construct a new addition to the house; 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)(11) and;

WHEREAS, the Zoning Board of Appeals has reviewed the application materials including the following:

1. Zoning Board of Appeals application dated November 9, 2022;
2. Building Inspector denial letter dated December 1, 2022;
3. Lewis Michael Architects, plans dated December 6, 2022; and

WHEREAS, the Owner is seeking an area variance from Appendix B of Chapter 300, Zoning and Land Use, to construct an addition; and

WHEREAS, pursuant to the applicable provisions of law and after due notice and publication, a public hearing was held on January 11, 2023, at which time all those wishing to be heard were given the opportunity to be heard, and the public hearing was closed on January 11, 2023; and

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

NOW, THEREFORE, BE IT RESOLVED, the Zoning Board of Appeals 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 Zoning Board of Appeals for the requested variance is granted in accordance with the plans submitted. In addition, the Zoning Board of Appeals grants the applicant the following variances:

1. A front yard variance of 13 feet 5 inches (164 Palisade Street);
2. A side yard setback variance of 4 feet 10 inches (164 Palisade Street);
3. A combined (both) side yard setback variance of 4 feet and 10 inches (164 Palisade Street);
4. A rear yard setback of 19 feet and 2 inches (87 Cedar Street);
5. A side yard setback of 7 feet 4 inches (87 Cedar Street); and
6. A maximum lot coverage by building of 1.8%; and

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1. In accordance with Section 7-712-b of the New York State Village Law and Section 300-24 of the Zoning and Land Use chapter of the Village of Dobbs Ferry, the ZBA must determine whether the benefit to the Applicant, if the variance is granted, outweighs the detriment to the health, safety, and welfare of the neighborhood and community. In rendering its determination and decision, the Zoning Board of Appeals finds the following:

A. Whether an undesirable change will be produced in the character of the neighborhood or be detrimental to nearby properties.

The ZBA finds that the benefits to the property outweigh the possible detriment to the neighborhood. The ZBA finds that the variances requested will not change the character of the neighborhood or be detrimental to nearby properties, and the setbacks of the proposed addition are consistent with the neighborhood.

B. Whether the benefit sought can be achieved by some method other than an area variance.

The ZBA finds that due to the existing location of the two residential buildings on the property as well as the property being a corner lot, there is no other method to achieve the architectural goals of the project, which is to add another dwelling unit in the 164 Palisade Street building without granting the variances being sought by the Applicant.

C. Whether the variance is substantial.

The ZBA does not consider the requested variances as substantial because the variances are a result of the current placement of the residential buildings and the fact that the property is a corner lot. In addition, the proposed addition is consistent with the neighborhood.

D. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

There will be no adverse effect on the physical or environmental conditions in the neighborhood or community resulting from the granting of this variance because the situation is unique to this property due to the configuration of the two residential buildings and the property being a corner lot. The neighborhood exhibits numerous residential buildings with similar setbacks as proposed for this property.

E. Whether the alleged difficulty was self-created.

A self-created difficulty is not determinative on an application for an area variance but is only one factor to be considered. The ZBA finds that the addition of the unit will be beneficial to the community and that the current location of the residential buildings on a corner lot necessitates the need for the variances.

2. All construction shall comply with all requirements of the Building Department and any other department, agency or board having jurisdiction.

This order was duly made by the Zoning Board of Appeals on the 11 day of January 2023.

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Motion by: _____ Seconded by _____

CHAIRMAN HOFMANN	<input checked="" type="checkbox"/> AYE	<input 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
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VOTE TOTALS	3 AYE	0 NAY	0 ABSTAIN	0 RECUSE	2 ABSENT/EXCUSED
RESULT:	MOTION: PASSES				

I hereby attest that the application was approved by the Zoning Board of Appeals at its January 11, 2023, meeting, and that I have been authorized to sign this Resolution by decision of the Zoning Board of Appeals.

Peter Hofmann, Chairman

Date