

**INC. VILLAGE OF MANORHAVEN
BOARD OF ZONING MINUTES
November 13, 2018 – 6:30 p.m.
Port Jewish Center, 20 Manorhaven Blvd. Port Washington, 11050**

Call to Order: 6:35 p.m.

Pledge of Allegiance: Jerry Devine

Attendance: Jeremy Devine, John DiLeo - excused, Jerry Volpe, Joseph Zimbardi, - excused, Patrick Gibson - Chair, Sharon Abramski – Village Clerk, Jeffrey Blinkhoff and Thomas Mullaney – BZA Attorneys; and Andrew Levenbaum - BZA Engineer.

EXECUTIVE SESSION:

- *Motion to go into Executive Session at 6:39 p.m. by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.*

- *Motion to close Executive Session at 6:55 p.m. by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.*

MATTERS BEFORE THE BOARD:

In the Matter of 48, 50, 52, 54 & 56 Ashwood Road Properties: Z568, Z569, Z570, Z571, Z572, a request is before the Zoning Board by Ressa Family LLC for an extension of time to August 13, 2019 to commence substantial construction of the houses and improvements pursuant to the approved Zoning Board variance decisions of February 13, 2018.

BOARD/APPLICANT COMMENTS:

- Steven Ressa, Esq. spoke on behalf of the applicant explaining why they were seeking an extension.

PUBLIC COMMENT:

- Robert O'Brien had a question regarding variances and timeframes. This was clarified.

- *Motion to accept a file extension by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.*

In the Matter of 49 Graywood Road, S-4, B81, L157, appeal by owner Pamela DeFranco from a Denial Letter issued to her with respect to a request for a Certificate of Occupancy in conjunction with a Village Letter issued in lieu of a Certificate of Occupancy dated March 24, 1977. **The applicant asks that the Board of Zoning Appeals interpret the Code to permit claimed pre-existing conditions of the home on the date of purchase. Alternatively, the applicant seeks variances from the following sections of the Village Code:** (1) section 155-13.1(E) under which the minimum side yard set-back permitted is six feet, and 5.7 feet is requested; (2) section 155-13.1(J) which provides that the maximum building lot coverage for a two-family dwelling is 25% and 31.72% is requested; (3) section 155-13.1(K) under which the maximum area covered by building lot coverage and the area occupied by structures, terraces, paved yard areas, paved driveways and any other impermeable surface is 50% and the proposed coverage is approximately 66.85%; (4) 155-13.1(L) under which each two family dwelling unit must have at least three on-site parking spaces for occupant use and where two of the three available parking spaces on the property are undersized, being approximately 9 feet in width; (5) 155-30(F) under which the maximum pave area in a front yard is 50% and the paved area here is 80.90%.

BOARD/APPLICANT COMMENTS:

The Board inquired about the history of the property. It was clarified by the BZA Attorney/

PUBLIC COMMENT: None

- *Motion to accept the pre-existing conditions, accept aforementioned variances of the Village Code and to declare this as a Type II SEQRA application. Motion accepted by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.*

APPLICATIONS BEFORE THE BOARD:

Z582 – 22 Sagamore Hill Drive, Port Washington, NY, 11050, S-4 B-39 L- 1-10, 56-58 in Zone E1. **Continued hearing; Amended drawings were submitted to the Zoning Board on Friday, November 2, 2018.** Applicant Secatoag 20-26, LLC proposes to construct one (1) mixed-use building seeking: **1.** a special use permit seeking mixed-use development in the E-1 zoning district in accordance with Section 155 – 24 (A)(22) of the Village Code; **2.** a variance for Section 155 – 24 (C)(2) - buildings shall not exceed 26 feet and two stories in height, as measured from the established street grade adjoining the property. **Proposed:** Building is 34.958 feet high. This does not include the elevator bulkhead or rooftop access stairs which adds an additional 10.5 feet to the building height for a total of 45.45 feet above the established street grade; **3.** a variance for Section 155-24 (C)(3) - building height shall not be less than 1 1/2 stories notwithstanding the above, a one-story building is permitted, provided that there is a parapet of at least 2 1/2 feet all around the building or gable. **Proposed:** The commercial/ retail portion of the building is one story with no parapet; **4.** a variance for Section 155-24 (C)(6) - the minimum front yard setback shall be 20 feet. **Proposed:** Sagamore Hill Drive is the principal frontage of the lot with a setback of 5 feet. **5.** A variance for 155-34 (A) – in all cases where flat roof construction is used and there is no ridge, there shall be an average air space of 18 inches between the ceiling beams and roof beams. **Proposed:** There is no 18 inch space between the ceiling beams and roof beams. They appear to be the same framing member as seen on the section provided on page A-3.0; **6.** A variance for Section 155-38 - buildings of wood-frame or metal-skin construction shall be prohibited in any commercial or industrial district. **Proposed:** Construction method is not specified; **7.** A variance of Section 155-45 (J) - in commercial or industrial districts, each off-street parking area shall have an area of not less than 10 feet by 20 feet, with access drives or aisles, in usable shape and condition, not less than 20 feet. **Proposed:** Parking spots vary in size and do not conform to the minimum required dimensions; **8.** a variance of Section 155-46 (off-street parking requirements) - 83 off-street parking spaces are required. **Proposed:** 33 off-street parking spaces are provided.

BOARD/APPLICANT COMMENTS:

- Howard Avrutine, Esq. spoke on behalf of the applicant. He gave a description of the property while discussing the history of when the applicant purchased the property. He discussed the first submission of plans, the original application and why they decided to reduce the size of the buildings by withdrawing variances as noted in the transcript. He clarified the new relief being sought by the applicant and wanted residents to know that their concerns were considered in these changes. He wanted to make it clear that they are not seeking “use” variances, because the property is in the E1 or Enterprise Zone; they are seeking a special permit variance for the mixed use relief. He wanted to make it clear that it is not necessary to show a hardship for the approval of a variance.
- David Mammina, architect for the applicant, explained and showed diagrams of the differences between the first set of drawings and current drawings of variances which are currently being sought.
- Howard Avrutine disagreed with Superintendent Rogel’s interpretation regarding plan measurements stating that elevators, stairs and parapets should not be included in calculations.(11/13/18 – Disapproval Letter of Rogel.) He noted that the E1 District was created in 2005 in an Attempt to revitalize that area.
- Jeremy Devine is concerned about the setback. Mammina clarified that there would be a sidewalk and “devil’s strip.” Mammina said he could move the building back and it would not affect parking.

PUBLIC COMMENT:

- Jens Rumenapp mentioned NYS Code & Laws and “use” variances. Avrutine stated that the applicant was not seeking use variances and that the BZA is allowed to relax the laws as long as there is no detriment to the community.
- Dorit Zeevi-Farrington made several points. 1. She mentioned that a steel factory was on the Dejana property and wanted to be sure an environmental study was done; 2. She noted that Dejana homes are traditionally sub-par; 3. She feels that three stories would be a drain on the neighborhood versus two stories, which she would not have a problem with; 4. She also noted the NYS Zoning Board of Appeals

Manual and “precedents” on page 10. Avrutine noted that environmental surveys were completed prior to Dejana’s purchase of the property and feels that the property is suitable for development.

- Jessica Medina had a question regarding the elevator shaft. Avrutine said the elevator is not within the measurement.
- Tim Stammers feels that this is bigger than any other building on Manhasset Isle and only 13% is dedicated to commercial use.
- Delores Casentrona feels that the more crowded we are, the more violent people are.
- Larry Kimmel feels that this size structure does not belong on Manhasset Isle.
- Neil Jester asked what criteria is considered on applications. Chairman Gibson explained.
- Bruce Migatz spoke about Section 155-60 of the local law, criteria for special permits and how they differ from “use” permits and feels the current drawings do not reflect proper mixed use. He feels that the E1 district is a “disaster.” He noted that a building which has a permitted nonresidential use on the street level and the residential use of the level(s) above is the definition of mixed use. He noted that Tom’s Point would support cluster housing. The impact of adjacent districts must be considered.
- Robert Randazzo discussed the proposed five foot setback.
- Robert O’Brien noted that Manorhaven is the 10th most densely populated area in the US and wants a moratorium on building. He claims to have 65 signatures from those who do not want more building and feels the BZA has a responsibility to protect the residents.
- Nick Marra stated that members of the old administration made a proposition to build on the senior housing. They wanted to change the Village Code. He claimed that the large structure on Orchard Beach Blvd. was built because Lucretia Steele voted to lift the building moratorium.
- Bernadette Dolan asked about the 11/19/18 BZA meeting. The Clerk clarified why there was a second unrelated meeting.
- Barbara Rumennapp feels that Dejana is an American success story. She requested that he work with the Board on these types of projects.
- Guy LaMotta feels that the Village needs high-end infrastructure. He supports Dejana’s application and feels that the E1 district should get rid of the commercial requirement.
- Caroline Dubois feels that the applicant is trying to wear down the residents. She reviewed a seven page paper which she wrote and distributed without permission to residents attending the meeting.
- Peter Dejana said he is not claiming any type of hardship and discussed his stance of the project and his application.
- Monica DeSantis moved back to Manorhaven. No one would give her a variance on her home to help her father-in-law. She feels the BZA should be working for the residents.
- Zygmunt Jagiello is concerned about the traffic and Sewers on Manhasset Isle.
- Howard Avrutine discussed insinuations of “setting a precedent.” He said that as long as there is a discernable difference between applications, each case is to be considered on its own merit. He felt that the sewer service will either be there when they submit for a building permit or it won’t. He feels there is not no limit on how much commercial is needed in the E1 district and said that the BZA has a legal obligation to consider an application. It is not a “gallop poll.” He explained that the paper Ms. Dubois has been distributing has misinformation. It exclusively addresses a use variance and hardship which are not factors in this application. He feels there is no evidence that this project will bring a hardship to the community.

Motion to suspend public comment to December 11 hearing at 6:30 p.m. by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.

ADJOURNMENT: 10:18 p.m.

Motion to close the meeting by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.

SHARON NATALIE ABRAMSKI, RMC, CMC
Village Clerk-Treasurer, Secretary to the BZA
Dated: November 13, 2018
Manorhaven, New York