

**VILLAGE OF SLEEPY HOLLOW  
ZONING BOARD OF APPEALS MEETING -APPROVED  
March 21, 2012**

The meeting was called to order by Peter Koffler, Chairman at 8:06 pm. The Chair noted that a quorum was present.

Present: Peter Koffler, Chairman  
Michael Wernick  
Linda Moiron  
Timothy Judge  
Jennifer Lobato-Church

Absent : M. Gorete Crowe  
Sherry Bishko

Also Present: Sean McCarthy (Village of Sleepy Hollow/Building Department)  
Janet Gandolfo (Village Attorney)  
Anthony DeVecchio (Recording Secretary)

**Agenda:**

- |  |                            |                 |                                 |
|--|----------------------------|-----------------|---------------------------------|
| <b>1) Kiran &amp; Jenny Batheja</b>                  | <b>4 Webb Road</b>         | <b>Addition</b> | <b>and alteration</b>           |
| <b>2) Antonio Soares</b>                             | <b>64 Depeyster Street</b> |                 | <b>Convert 2-fam. to 3-fam.</b> |
| <b>3) Marcelo Poguio 95</b>                          | <b>College Avenue</b>      | <b>Proposed</b> | <b>grocery store</b>            |
| <b>4) Minutes for November 2011 and January 2012</b> |                            |                 |                                 |

**Announcements:**

None.

**1) Kiran & Jenny Batheja 4 Webb Road Addition and alteration**

This is an application for an area variance.

The Chair asked if proof of mailings was received.  
Sean McCarthy responded yes.

The Chair read the public notice aloud for the record.

The Chair stated that the Board had received the following:

- 1) Appeal and petition
- 2) Survey

Robert Barstow is the project architect and is representing this application on behalf of the owners.

Robert Barstow stated that the requested variances are for pre-existing non-conformities. He stated that the proposed work is only adding a portico in the front entrance and a deck is proposed over an existing patio. He stated that these are the only minor footprint changes.

Jennifer Lobato-Church asked about the dormer and chimney.

Robert Barstow responded that the dormer is being extended and the chimney is also being extended.

The Chair asked if the rear deck is visible from the street.

Robert Barstow responded no.

Jennifer Lobato-Church asked if there are any neighbors near the proposed work.

Robert Barstow responded there are neighbors on all 3 sides but they are not impacted by the proposed work. He stated that all setbacks are conforming.

The Chair opened the public hearing.

Chris Pike of 6 Webb Road stated that he is concerned with the extension to the rear since he is downhill of the property. He stated that from the street, the house has the appearance of being 2-stories already since the basement is above grade. He stated that the proposed work will appear to be like a 3<sup>rd</sup> story. He stated that the 3<sup>rd</sup> story will be visible from the street and will negatively impact his property. He stated that the dormer expansion and other proposed changes are not impacting his property. Lastly, he also stated that the property slopes downward and during heavy rain and pores thru the existing rock wall that separates the properties. He stated that the existing downspouts discharge towards his property. He stated that the leaders have been extended towards his house and have caused water problems in his basement.

Jennifer Lobato-Church asked if any of these issues addressed by this project.

Robert Barstow responded that drywells are proposed so the runoff will be controlled.

Chris Pike also stated that a proposed BBQ area is not shown on the drawing.

Since there were no further public comments, the Chair closed the public hearing.

The Chair asked about the 2<sup>nd</sup> floor addition.

Robert Barstow responded that the master bedroom is being extended.

Timothy Judge asked about the grade changes on the property from north to south.

Robert Barstow responded that the grade change is rather large.

Timothy Judge asked about the size of the dry well.

Robert Barstow responded that he has not performed the calculation yet.

Timothy Judge asked about the location of the dry well.

Robert Barstow responded that probably the side yard.



Richard Blancato is an attorney and is representing this application along with the owner.

Richard Blancato stated that the public notice is incorrect regarding the permitted use. He stated that the property is permitted to be a 2-family property.

Sean McCarthy responded that the public hearing is correct based on the lot size.

Richard Blancato stated that the previous meeting, there was no parking at the property. He stated that an easement has been agreed upon between the adjacent property owner so that parking can be accessed in the rear of the property. He stated that a parking variance of 1 parking space is still required.

Richard Blancato stated that the property has been used as a 3-family property since 1972. He described the interior layout of the house from 1972. He stated that the owner applied for a building permit to convert the 2<sup>nd</sup> story into a separate dwelling unit. He stated that all the work was completed but there is no record in Village Hall.

Richard Blancato stated that the owner did everything according to the codes at the time the work was done. He stated that it is taxed as a 3-family property and was only discovered by Robert Stiloski about 9 years ago that there was no 3-family Certificate of Occupancy in the Bldg Department files.

There was an open discussion on the previous application.

Richard Blancato reviewed the criteria for granting a variance for an area variance. He stated that there are other similar properties in the area so it is not detrimental to the neighborhood. The owner is paying tax on the property as a 3-family property. He also stated that it is not self-created since the applicant did everything possible to have the property converted legally.

Richard Blancato provided electrical permits that were taken out on to increase the occupancy at the property. He provided a historical narrative on the work done at the property, when it was done and who did the work.

The Chair opened the public hearing.

Since there were no public comments, the Chair closed the public hearing.

Richard Blancato submitted numerous documents to the Board to support the 3-family dwelling claim.

The Chair asked if the conversion from 2-family to a 3-family property exacerbates the density problem in the Village.

Richard Blancato responded no. He stated that the property has been a 3-family property for many years.

The Chair asked when the tax assessor changed the tax assessment from 2-family to a 3-family. Richard Blancato responded in 1972.

The Chair stated that the conversion from a 2-family to a 3-family is significant. Richard Blancato responded that the conversion has been completed in good faith back in 1972. The Chair stated that there is a problem in the Village regarding illegal dwelling units.

Richard Blancato stated that the conversion back to a 2-family house will ultimately cause the owner to evict the current tenant that has been living at the house since 1973.

The Chair made a motion to deny the application based on the fact that the area already has parking and density issues and the proposed application is detrimental to the neighborhood.

Linda Moiron stated that she would like to see the property to see the layout of the current property.

There was an open discussion on the documentation provided to the Board.

Janet Gandolfo stated that the last time the application was before the Board, the issue that the Board had was regarding the lack of parking.

Richard Blancato stated that the documents that the Building Department currently have were provided by the applicant and not by the Building Department.

The Chair withdrew his motion to deny the application.

The Chair made a motion to adjourn the application to the next meeting. Michael Wernick seconded. It was unanimous (5-0).

**3) Marcelo Poguio 95 College Avenue Proposed grocery store**

This is an application for an area variance.

The Chair asked if proof of mailings was received. Sean McCarthy responded yes.

The Chair read the public notice aloud for the record.

The Chair stated that the Board had received the following:

- 1) Application
- 2) Survey

Kyle McGovern is an attorney and is representing this application on along with engineer, Miguel Castro and the owners.

Kyle McGovern stated that there is only one variances required for parking. He stated that the other variance regarding §62-20.1 does not apply since the proposed business is not serving or preparing food at the site.

Kyle McGovern stated that the application is for a full-service supermarket and not a delicatessen.

Miguel Castro gave an overview of the parking plan as well as the interior of the property. He also spoke about a loading zone. He stated that 2 on-street parking spaces will be created since 2 garage spaces will be eliminated. He stated that no matter what the building was converted to, a parking variance will be required. He stated that the Planning Board gave a positive referral to the Zoning Board from their January 2012 meeting.

Kyle McGovern spoke about the current use of the property. He stated that the trucks would be used during the day and returned at night. He stated that the proposed store would be serving the dense areas of the Village.

Kyle McGovern stated that the proposed grocery store would be an enhancement to the area. He stated that a shuttle would be provided to bring people back home with their groceries. He stated that most customers will walk to the store. He stated that the Thai restaurant was approached for some temporary parking as well as Frank's Chevrolet but the Thai restaurant could not spare the Parking spaces and Frank Chevrolet did not respond.

Kyle McGovern stated that there is no impact to the environmental conditions to the area. He stated that site lighting and security cameras are proposed to further improve the site.

Jennifer Lobato-Church asked why are the site lighting and cameras being installed now. Kyle McGovern responded that he did not know. He stated that the tenant is putting monies aside to install these items.

Janet Gandolfo stated that since the applicant is amending his application to indicate that the property will be a retail grocery store and not a restaurant/delicatessen.

The Chair asked if other uses were evaluated regarding parking. Miguel Castro responded that an office use would require a parking space for every 300-feet.

Douglas Martino is representing the adjacent business owner Ms. Gonzales. He submitted a petition opposing the proposed supermarket. He stated that Ms. Gonzales owns a small bodega and she is concerned about her business. He stated that the applicant is suggesting that they are not serving prepared food but can change that situation in the future. The Chair responded that conditions could be placed on any approval.

Douglas Martino stated that the parking requirements are significant. He stated that the proposed parking will be for employees only and there is no parking being provided for the public. He stated that this will only increase the existing parking issues in the area. He also stated that the proposed shuttle system for customers is not required under the current Village code.

Jennifer Lobato-Church asked about the business that Ms. Gonzales owns.

Douglas Martino responded that its off the shelf groceries and some food is prepared on-site.

The Chair asked how many parking spaces are provided by the bodega.

Douglas Martino responded none. He stated that its not that type of business where parking is needed.

Robert Barstow is a local property owner and he said that he is in favor of the application. He also stated that the owner should offer delivery service.

Joel Sherry (154 Valley Street) stated that the grocery store is a nice idea but it is a very congested area. He wanted to ask if the owners have looked into how much business will come by car.

Yamaris Ferrera is interpreting for Ms Gonzales (adjacent property owner). She stated that this grocery store will hurt her business and she is opposed to the proposed application. She stated that 136 people have signed the petition opposing the grocery store. She also stated that food and medicine are not permitted to be sold in the store since the property used to be an automotive repair shop.

Walter (applicant) stated that a bodega and a grocery store are different. He stated that when he was a little boy, he used to walk to C-Town and it's rather far. He stated that there are a lot of choices in the area and people can shop where then want.

Yamaris Ferrera lives 2 blocks from the property and she stated that parking is very difficult. She stated that at the corner is a bus stop for the school buses and the Westchester County Bee-Line bus.

Since there were no further public comments, the Chair closed the public hearing.

The Chair wanted to see the positive referral from the Planning Board.

Sherry Bishko asked about the size of the store.

Miguel Castro responded about the size of the original C-Town.

Linda Moiron asked about the number of employees.

Walter responded 4 employees on double shifts plus cashiers.

The Chair asked about the hours of operation.

Walter responded 8am to 9pm M-F and some weekend hours.

Timothy Judge asked about the parking on the roof.

Walter responded that it is too dangerous to park on the roof of the structure.

Timothy Judge asked about alcohol sales.

Kyle McGovern responded that alcohol will be sold but tobacco will not be sold.

Timothy Judge asked about the nearest fire hydrant.

Kyle McGovern responded that it is across the street. He also showed photos showing some available parking during the daytime.

The Chair made a motion to adjourn the application to the next meeting. He stated that he wanted to see the Planning Board's minutes which showed the positive referral.

This was adjourned to the next meeting.

#### **4) Minutes for November 2011 and January 2012 -**

The minutes for the November 2011 will be reviewed at the next meeting.

The minutes for January 2012 were reviewed. The Chair made a motion to approve the minutes as submitted. Michael Wernick seconded. It was unanimous (5-0)

Adjourned 10:42 pm.