

RECEIVED  
DEC 14 2008  
Village Building Dept.

A public meeting was held by the Zoning Board of Appeals of the Village of Woodbury at Town Hall, Highland Mills, New York on December 10, 2008 at 7:30 P.M. AGENDA for this meeting is shown as page 2 of these minutes.

MEMBERS PRESENT: Messrs. Cataggio (Chairman) Mickolajczyk, Egan and Pederson

MEMBER ABSENT : Ms. Sandra Capriglione

ALSO PRESENT: : Lisa Felicissimo, Esq., board's attorney

1. Chairman Cataggio called the meeting to order.
2. PLEDGE OF ALLEGIANCE to the Flag was recited.
3. Chairman Cataggio introduced the board members (as above) and Louise Kopchak, recording secretary and the board's attorney, Lisa Felicissimo, Esq.
4. This meeting is not being taped, since there is a planning board meeting which is being taped.
5. EXECUTIVE SESSION - There was no need for one.

PUBLIC COMMENT SEGMENT - 15 minutes are allowed at maximum at the beginning of the meeting to inquire as to how many people plan to speak tonight. Time will be divided accordingly. Please keep your comments a subject germane to the ZBA meeting. Please do not discuss any item related to a public hearing scheduled tonight during this comment segment. Please refrain from interjecting anything personal.

NO ONE WISHED TO SPEAK.

6. APPROVAL OF MINUTES OF BOARD'S OCTOBER 22, 2008 MEETING.

MOTION was made by T. Egan, seconded by G. Pedersen to accept the minutes as read. Motion was unanimously carried. (TE, GP, AM, RC)

READING OF DECISIONS FROM HEARING PREVIOUSLY HELD AND CLOSED.

There were none.

**BLACK FOREST MILL - CONTINUATION OF PUBLIC HEARING APPEALING THE DECISION OF THE VILLAGE BUILDING ADMINISTRATOR PURSUANT TO SECTION 310-49(C)3 OF THE VILLAGE CODE. THE BUILDING ADMINISTRATOR HAS MADE THE DETERMINATION THAT THE OCTOBERFEST HELD AT THE BLACK FOREST MILL IS NOT A PERMITTED USE UNDER THE CODE OR A PRE-EXISTING NON-CONFORMING USE. SAID PROPERTY IS LOCATED IN THE R1A ZONING DISTRICT AT 716 ROUTE 32, HIGHLAND MILLS AND IS KNOWN ON THE WOODBURY TAX MAPS AS SECTION 207, BLOCK 1, LOT 8.**

MEMBERS PRESENT AND ABSENT: Same as above

ALSO PRESENT: Lisa Felicissimo, Esq., Sonja Kullberg, for applicant.

Chairman read notice of public hearing; Attorney Felicissimo stated that she had received a message today from Attorney Golden, Village Board attorney, who indicated that although the board was absolutely desirous of adopting the local law regarding public assembly at the meeting, they had the wrong draft there and attorney Golden would not let them do so as a matter of legality. He apologized and takes responsibility for it, as it could happen to anybody, and, accordingly it will not be adopted until their next meeting. Mr. Golden said he believes the board was more than willing to adopt it unanimously but the wrong draft showed up at the meeting.

MOTION was made by G. Pedersen, seconded by A. Mickolajczyk to continue this public hearing until the board's January 28, 2008 meeting. Motion was unanimously carried.

**VILLAGE OF WOODBURY  
ZONING BOARD OF APPEALS  
WEDNESDAY, DECEMBER 10, 2008  
7:30PM**

1. BLACK FOREST MILL – CONTINUATION OF PUBLIC HEARING APPEALING THE DECISION OF THE VILLAGE BUILDING ADMINISTRATOR PURSUANT TO SECTION 310-49(C)3 OF THE VILLAGE CODE. THE BUILDING ADMINISTRATOR HAS MADE THE DETERMINATION THAT THE OCTOBERFEST HELD AT THE BLACK FOREST MILL IS NOT A PERMITTED USE UNDER THE CODE OR A PRE-EXISTING NON-CONFORMING USE. SAID PROPERTY IS LOCATED IN THE R1A ZONING DISTRICT AT 716 ROUTE 32, HIGHLAND MILLS AND IS KNOWN ON THE WOODBURY TAX MAPS AS SECTION 207, BLOCK 1, LOT 8.
  
2. LAYON- CONTINUATION OF PUBLIC HEARING FOR A SPECIAL PERMIT PURSUANT TO SECTION 310-35 OF THE VILLAGE CODE TO PERMIT A DWELLING UNIT FOR AN ADDITIONAL FAMILY MEMBER. SAID PROPERTY IS LOCATED AT 242 RIDGE ROAD, HIGHLAND MILLS IN THE R1A ZONING DISTRICT AND IS KNOWN ON THE WOODBURY TAX MAPS AS SECTION 206, BLOCK 1, LOT 8.
  
3. DEFELICE – PUBLIC HEARING FOR A USE VARIANCE TO PERMIT THEIR EXISTING BUILDING TO BE USED FOR RETAIL PURPOSES. WHEREAS THE BUILDING INSPECTOR HAS DENIED THE PERMIT APPLICATION PURSUANT TO SECTION 310-7 (BULK REGULATIONS) AND 310-6(A) WHEREAS A RETAIL USE IS NOT PERMITTED IN THE CR (CORRIDOR RESIDENTIAL) ZONE. SAID PROPERTY IS LOCATED AT THE CORNER OF SHUIT PLACE AND ROUTE 32 AT 209 ROUTE 32, CENTRAL VALLEY AND IS KNOWN ON THE WOODBURY TAX MAPS AS SECTION 228, BLOCK 5, LOT 5.
  
4. KIMCO/WOODBURY CENTRE SIGN – PUBLIC HEARING FOR AN AREA VARIANCE TO PERMIT THE EXPANSION OF AN EXISTING FREESTANDING SIGN TO A TOTAL OF 356 SQUARE FEET, WHEREAS PURSUANT TO SECTION 310—30 (SIGNAGE TABLE) A MAXIMUM 305 SQUARE FEET IS PERMITTED. SAID PROPERTY IS LOCATED AT THE WOODBURY CENTRE AND IS KNOWN ON THE WOODBURY TAX MAPS AS SECTION 225, BLOCK 2, LOT 1.12.

EXECUTIVE SESSION

ZBA 12/10/08

**LAVON-** CONTINUATION OF PUBLIC HEARING FOR A SPECIAL PERMIT PURSUANT TO SECTION 310-35 OF THE VILLAGE CODE TO PERMIT A DWELLING UNIT FOR AN ADDITIONAL FAMILY MEMBER. SAID PROPERTY IS LOCATED AT 242 RIDGE ROAD, HIGHLAND MILLS IN THE R1A ZONING DISTRICT AND IS KNOWN ON THE WOODBURY TAX MAPS AS SECTION 206, BLOCK 1, LOT 8.

MEMBERS PRESENT: Messrs. Cataggio (Chairman) Mickolajczyk, Egan, Pedersen  
 MEMBER ABSENT : Ms. S. Capriglione  
 ALSO PRESENT : Lisa Felicissimo, Esq., board' satorney, Mr. and Mrs.  
 Rick Lavon

When asked, applicant stated that they do not have a Certificate of Occupancy. Mr. Lavon mentioned a letter from Gary Thomasberger dated December 9, 2008, which is shown in these minutes as pages 4 and 5,

It was mentioned that when thiw matter was continued by the board, there was some confusion as to what applicant really applied for with Gary Thomasberger and what applicant had said at the hearing. Chairman read aloud the above mentioned letter (which should be read in conjunction with these minutes). It seems that what Gary Thomasberger is saying is that the applicant in 2007 did not indicatethat this was for a mother/daughter special permit but that it was for an addition. However, at last month's public hearing, applicant indicated that they filed for a mother/daughter in the application. Mr. Lavon said he thought they were getting a mother/daughter. The original contractor, he said, filled out the application.

Mrs. Lavon said the addition is where her mother will live. Her mother's] name is ELIZABETH HADDOCK. She said the present kitchen situation with her mother is not working out. In answee to question by G. Pedersen, Mrs. Lavon said the original addition was a bedroom, a bathroom and some living space. Applicant said it was built for Mrs. Haddock but they did not plan to put a kitchen in. However, now she needs her own unit. In order for applicant's mother to get around in the present kitchen isn't working out. She said they want something to accommodate her mother.

Mr. Mickolajczyk said the problem to the board is that applicants have not received the Certificate of Occupancy. He said if they had built the addition and got a C. O. and now come before this board and say they are not going to change anything but they want to add a kitchen and they want to do a mother/daughter. Then, Mr. Mickolajczyk said, the board would have a little leeway to issue the special permit. He said the way the Code is written, there cannot be any modifications made to the dwelling for a mother/daughter.

Mr. Pedersen said he would have to go by the first paragraph in Gary Thomasberger's letter (page 4 herein). Again it was mentioned that if they had received a C.O. for the addition it might not be a problem. It was discussed as to what difference it would make if they built this addition and three years later came in for amother/daughter. In Mr. Thomasberger's letter he is suggesting to the village planner that when the Code is changed this is one area that may need modification.

Mr. Lavon said the addition is 20' x 40'. Discussion. It was mentioned that Mr. Thomasberger's letter changes what they were asking for the last time because he is saying there was a C.O. Now the board can treat this as a Special Permit for a mother/daughter.

## **BUILDING DEPARTMENT**


P.O. BOX 1004

511 ROUTE 32

HIGHLAND MILLS, NEW YORK 10930

Gary Thomasberger, Building Inspector

TO: Rich Cataggio, Chair, Zoning Board of Appeals  
ZBA Members

FROM: Gary Thomasberger  
Building Inspector 

DATE: December 9, 2008

RE: Lavon - Mother/Daughter

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On October 11, 2007, Mr. & Mrs. Lavon applied for a building permit for an addition (copy enclosed). The plans did not indicate a second kitchen for mother/daughter purposes. After the addition received a certificate of occupancy, an application was made to the ZBA under Section 310-35.

This scenario has happened several times in the past whereby an applicant constructs an addition on the premises, then seeks a special permit from the ZBA for mother/daughter purposes. Currently, Section 310-35 does not allow for any exterior modifications to the principal dwelling. My opinion is that some modifications should be allowed.

I do inform all applicants that the special permit is in essence a contract with the Village and an inspection is conducted once a year. If there is a complaint, additional inspections are conducted to determine the status of the special permit which seems to work well.

I have written to the Village Planner highlighting several areas of the Zoning Law that I feel requires change or modification. This is one area that may need modification. Perhaps the ZBA wants to issue the special permit and a variance to permit an addition and submit the application to the ZBA first prior to a building permit. Please discuss this issue and let me know how you wish to handle these cases in the future.

ZBA 12/10/08

Phone Number (845) 928-6911 x-5

Fax Number (845) 928-7263

VILLAGE OF WOODBURY  
511 ROUTE 32, HIGHLAND MILLS, NY 10930  
BUILDING PERMIT APPLICATION

RECEIVED  
CITY OF WOODBURY  
20070706 PM 02:25

Under the Zoning & Building Ordinances of the Village of Woodbury, Orange County, New York

**RESIDENTIAL FEE** for Permit \$10.00 for each \$1,000. of the cost of each building or dwelling unit or summer dwelling unit. ~~Minimum Fee is \$10.00.~~

Fee for Certificate of Occupancy \$ 25.00 for each building or dwelling, or summer dwelling unit, which is due upon application. Total minimum fee for a building permit is \$35.00.

**APPLICANT MUST FURNISH:**

1. A "Plot Plan" showing scale, bearings, outline of premises, existing and proposed structures and uses, including sewerage disposal, wells, and grade and location of drainage.
2. Two sets of "Plans & Specifications" showing the type of construction, number of stories, number of dwelling units, or a summer dwelling units, size and location of aprons, sectional class of foundation; showing drainage and frost control and all other information required by the Zoning and Building Department.
3. Building Permit will expire at the end of two years. At that time a new application and fee shall be required.

PERMIT NO: 07-144 APPLICATION FEE: \$ 675.00  
C# 10767

Application is for:

1. Building Permit
2. Certificate of Occupancy of such building
3. Certificate of Occupancy
4. Certificate of Occupancy for change of use
5. Other permit (specify) ADDITION
6. Number of dwelling units or summer dwelling units 1 (SINGLE FAMILY DWELLING)

Addition  
20x47.3

COST OF WORK INCLUDING FREE LABOR AND MATERIALS \$ 665,000.00

Zone R-2A Location (describe clearly) 242 Ridge Road

Tax Map Section, Block and Lot G-1-B  
 Present use of property SINGLE FAMILY DWELLING  
 Intended use of property SINGLE FAMILY DWELLING  
 Nature of work proposed: New Building Addition  Alterations   
 Type of Construction: WOOD FRAME No. of Stories: 2 STORY, ADDITION, 2 STORY DWELLING  
 Dimensions: Of Lot: IRREGULAR LOT SEE PLAN Of Structure: ADDITION = 20' x 47.3'  
 Of Yard Front (depth) 139.3' Of Structure: FRONT = 82.583'  
 Source of Water: CITY WATER Kind of Heat: Boiler  
 Kind of sewerage disposal: CITY SEWER

All Construction Shall Conform To The Requirements of The New York State Building & Construction Code.

Owner of Premises: NANCY RICK LAVON NAME ADDRESS 242 RIDGE RD HIGHLAND MILLS PHONE # 845-928-7358  
 Applicant: \_\_\_\_\_  
 Contractor: L+C REMODELING CORP 12 BUCKINGHAM RD HAVERT NY 10154 845-642-0214

DATE: 10.11.07 Applicants Signature: \_\_\_\_\_

This application is hereby: APPROVED OR DENIED

COMMENTS: \_\_\_\_\_

DATE: 10/16/07 SIGNED: [Signature]

**PLEASE NOTE: IT IS YOUR RESPONSIBILITY TO CALL FOR INSPECTIONS DURING CONSTRUCTION ON ALL BUILDING PERMIT AND FOR FINAL CERTIFICATE OF OCCUPANCIES UPON COMPLETION.**

Tony 638-9336  
Call

Chairman called for comments from the public; there were none.

MOTION was made by A. Mickolajczyk, seconded by G. Pedersen to close the hearing. Motion was unanimously carried. (GP,AM,TE,RC).

3. DEFELICE - PUBLIC HEARING FOR A USE VARIANCE TO PERMIT THEIR EXISTING BUILDING TO BE USED FOR RETAIL PURPOSES. WHEREAS THE BUILDING INSPECTOR HAS DENIED THE PERMIT APPLICATION PURSUANT TO SECTION 310-7 (BULK REGULATIONS) AND 310-6(A) WHEREAS A RETAIL USE IS NOT PERMITTED IN THE CR (CORRIDOR RESIDENTIAL) ZONE. SAID PROPERTY IS LOCATED AT THE CORNER OF SHUIT PLACE AND ROUTE 32 AT 209 ROUTE 32, CENTRAL VALLEY AND IS KNOWN ON THE WOODBURY TAX MAPS AS SECTION 228, BLOCK 5, LOT 5.

MEMBERS PRESENT: Messrs. Cataggio (Chairman) Mickolajczyk, Egan, Pedersen  
MEMBER ABSENT : Ms. Sandra Capriglione  
ALSO PRESENT: Lisa Felicissimo, Esq., board's attorney.

Chairman Cataggio announced that this application has been withdrawn, pursuant to letter dated 12/10/08 from Anthony and Lisa Fefelice, shown as page 7 in these minutes.

4. KIMCO/WOODBURY CENTRE SIGN - PUBLIC HEARING FOR AN AREA VARIANCE TO PERMIT THE EXPANSION OF AN EXISTING FREESTANDING SIGN TO A TOTAL OF 356 SQUARE FEET, WHEREAS PURSUANT TO SECTION 310-30 (SIGNAGE TABLE) A MAXIMUM 305 SQUARE FEET IS PERMITTED. SAID PROPERTY IS LOCATED AT THE WOODBURY CENTRE AND IS KNOWN ON THE WOODBURY TAX MAPS AS SECTION 225, BLOCK 2, LOT 1.12.

MEMBERS PRESENT AND ABSENT, AND ALSO PRESENT, same as above.

Chairman Cataggio announced that this application has been withdrawn, pursuant to letter dated 12/10/08 from George Lithco, Esq., attorney for Kimco Realty Corporation, shown as page 8 in these minutes.

BOARD'S DISCUSSION AS TO DECISION REGARDING PUBLIC HEARING HELD AND CLOED.

Re: LAVON - application for a mother/daughter dwelling

Gary Thomasberger's letter (page 4 herein) cleared up questions that Mr. Pedersen had. T.Egan said the big question is whether or not they already had a Certificate of Occupancy; Mr.Thomasberger's letter said they do. Mr. Mickolajczyk addressed the applicants to to any kitchen which they install, once it ceases to be a mother/daughter they have to remove that kitchen. Also, there will an an annual inspection every year.

MOTION was made by T. Egan, seconded by G. Pedersen to grant the Special Permit for mother/daughter dwelling. Motion unanimously carried (TE,GP,AM,RC)

Mr. and Mrs. Lavon were advised that the board's attorney will write up a formal decision but it will not be signed until the board's next meeting in January 2009. After it has been signed and filed with the building department, the special permit will be issued.

GARY THOMASBERGER'S REPORT ON SPECIAL PEREMITS FOR NOVEMBER & DECEMBER was accepted by the board as submitted. Report is shown as page 8A herein.  
MOTION MADE, UNANIMOUSLY CARRIED,  
TOCLOSE.

*Louise J. Kopchak*  
Louise J. Kopchak, Secretary ZBA

Anthony & Lisa Defelice  
285 Skyline Drive  
Highland Mills, NY 10930

RECEIVED  
DEC 10 2008  
WOODBURY ZONING BOARD

December 10, 2008

The Village of Woodbury Zoning Board of Appeals  
511 Route 32  
P.O. Box 1004  
Highland Mills, NY 10930

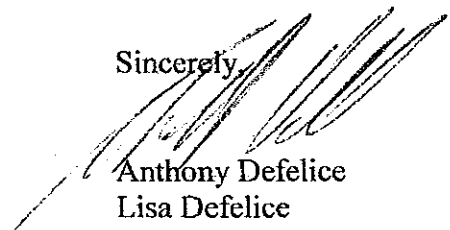
Re: 209 Route 32 Central Valley, N.Y. 10917

Dear Village of Woodbury Zoning Board of Appeals:

At this time we would like to withdraw our application.

Thank you for your consideration.

Sincerely,



Anthony Defelice  
Lisa Defelice

ZBA 12/10/08  
Defelice

DEC-10-2008 15:17  
GERALD N. JACOBOWITZ  
DAVID E. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN  
JOHN C. CAPPELLO  
GEORGE W. LITCO  
MICHAEL L. CAREY  
\*LLM IN TAX\* PDS

JACOBOWITZ GUBITS LLP  
**JACOBOWITZ AND GUBITS, LLP**

**COUNSELORS AT LAW**

158 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

(845) 778-2121 (845) 778-5173 FAX  
E-mail: [info@jacobowitz.com](mailto:info@jacobowitz.com)

845 778 2580 P.001  
SANFORD R. ALTMAN  
MARK T. STARKMAN  
AMANDA B. BRADY  
MICHELE L. BABCOCK  
GARY M. SCHUSTER  
WILLIAM E. DUQUETTE  
CARMEE G. MURPHY  
ALYSE D. TERHUNE  
KARA J. CAVALLO  
JOHN J. REVELLA  
TOBIAS A. LAKE  
DAVID M. GANDIN

December 10, 2008

Hon. Richard Cattagio  
Village of Woodbury Zoning Board of Appeals  
511 Route 32  
Highland Mills, New York 10930

(845) 928-7263

Re: ZBA application  
Woodbury Centre  
Route 32, S/B/L 225-2-12.1)

RECEIVED  
DEC 10 2008  
WOODBURY BLDG. DEPT.

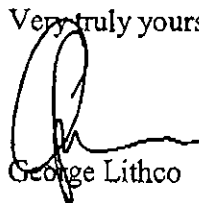
Dear Chairman Cattagio:

Based on the attached determination of the Building Inspector, we respectfully withdraw the application of Kimco Realty Corporation for a variance from the sign area provisions applicable to freestanding signs in the IB zoning district.

Please refund the application fee directly to the applicant, less any expenditures incurred by the Board in connection with notice or review of the application to date.

We apologize for the lateness of this request, and for any inconvenience that this causes members of the public present for tonight's meeting or the Zoning Board of Appeals.

Very truly yours,



George Litco

CC: Hon. Gary Thomasberger  
Lisa Felicissimo, Esq.  
Client

ZBA 12/10/08  
Kimco Realty Corporation

- page 5 -

(845) 928-6911, EXT. 5  
PHONE

VILLAGE OF WOODBURY

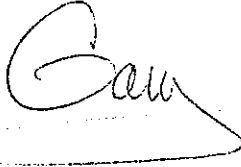
(845) 928-7263  
FAX

## ZONING BOARD OF APPEALS

P.O. Box 1004  
511 ROUTE 32  
HIGHLAND MILLS, NEW YORK 10930  
*RICHARD CATAGGIO, CHAIRMAN*

**TO:** RICHARD CATAGGIO, CHAIRMAN  
MEMBERS OF THE ZONING BOARD OF APPEALS

**FROM:** GARY THOMASBERGER  
BUILDING INSPECTOR



**DATE:** DECEMBER 10, 2008

**RE:** SPECIAL PERMITS NOVEMBER & DECEMBER

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ALL SPECIAL PERMIT INSPECTIONS WILL BE CONDUCTED AND COMPLETED PRIOR TO NEXT MONTHS MEETING.

*ZBA 12/10/08*

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