

**INC. VILLAGE OF MANORHAVEN
BOARD OF ZONING
33 Manorhaven Blvd. Port Washington, 11050
April 16, 2019 at 6:30 p.m. - MINUTES**

Call to Order: 6:32 p.m.

Pledge of Allegiance: Mike Masiello

Attendance: Jeremy Devine, John Di Leo - excused, Jerry Volpe, Joseph Zimbardi, Patrick Gibson - Chair, Sharon Abramski – Village Clerk, Jeffrey Blinkhoff – BZA Attorney; Andrew Levenbaum - BZA Engineer.

REQUESTS FOR ADJOURNMENTS:

REQUEST TO SUSPEND:

Z587 – 55 Sintsink Drive West, Port Washington, NY 11050 Section 4, Block L, Lots 6,7, Residential Zone R-1: Applicant seeks variances of the Village Code as follows: (1) from section 155-13.1 (J) which provides that the maximum lot building coverage for a one-family dwelling shall be 28%. Building coverage shall include the principal building, including attached or detached porches and decks extending more than two feet above average finished grade and attached or detached garages and all other accessory uses.

Proposed: Building lot coverage provided is 37.79%.; (2) from section 155-13.1 (F) which provides that the minimum rear yard setback shall be 20 feet. **Proposed:** Rear yard setback is 17.9 feet; (3) from section 155-13.1 (K) which provides that the total of building lot coverage and the area occupied by structures, terraces, paved yard areas, paved driveways and any other impermeable surface shall not exceed 50% of the area of the lot. **Proposed:** Total building lot coverage provided is 56.12%.

Z593 - 166 Shore Road, Port Washington, NY, 11050, S-4, B-H, L-29 in Zone C-3. Applicant seeks a special use permit from the Board of Zoning Appeals pursuant to Section 155 – 20 A (1) of the Village Code in order to construct a restaurant or other eating facility; and Applicant also seeks a variance of Section 155 – 46 of the Village Code under which five off-street parking spaces are required and Applicant proposes to include two off-street parking spaces.

- Motion to suspend Z 587 and Z593 until further notice by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.

REQUEST FOR ADJOURNMENT TO MAY 14:

Z- 595 - 59 Orchard Beach Boulevard, Port Washington, NY, 11050, S-4, B-59, L-636 in zone R-4. Applicant seeks a variance: (1) from section 155 – 16 (B) of the Village Code in order to construct a building with a building area of 45.02% of the lot area where the maximum permitted is 35%; (2) from section 155 – 35 (A) of the Village Code in order to maintain the eaves that project into the side yard's by 42 inches when cornices, eaves, and gutters cannot project more than 24 inches into side yards; and (3) from section 155 – 35 (E) of the Village Code in order to maintain an open side entry stair leading to the second floor under both the left and right side of the building when the Code does not permit entry stairs on the side of the structure leading to a second-story, either open or enclosed, covered or uncovered.

- Motion to adjourn Z 595 until May 14th by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.

EXECUTIVE SESSION:

- Motion to enter into Executive Session to seek legal advice at 6:34 p.m. by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.

- Motion to close the Executive Session at 6:56 p.m. by Jerry Devine; seconded by Joseph Zimbardi; motion unanimously carried.

APPLICATIONS BEFORE THE BOARD:

Z-594 - 16 Dunes Lane, Port Washington, NY 11050 in zone R-1. Applicant, Donna Deriu, seeks a variance of section 155—13.1(N) of the Village Code to maintain an accessory structure in a required side yard.

Board/Applicant Comments:

- Donna Deriu noted that when she remodeled her home approximately twelve years ago, the Building Superintendent at the time approved her air conditioning unit. It is approximately one foot past the chimney.
- Jerry Devine asked for an exact measurement located including the unit size and measurement within the side lot.

PUBLIC COMMENT: None

- Motion to close public comment by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.
- Motion to accept application as a type II Action by Jerry Devine; seconded by Joseph Zimbardi; unanimously carried.
- Motion to accept application conditionally upon receipt of measurements from a surveyor within thirty (30) days of this hearing by Joseph Zimbardi; seconded by Jerry Devine; motion unanimously carried.

Z-589 - 5A Sintsink Drive East, Port Washington, NY 11050, S-4 B-39 L- 32 in Zone E1. Applicant 14 Henderson Ave. Corp/ Woody Ventura and William Ventura seek to convert an existing building into two separate occupancies with one being a kennel and the other being office space with a low hazard storage area, and specifically seeks: (1) a determination and interpretation from the Board of Zoning Appeals that a variance is not required in order to maintain a kennel and low hazard storage accessory to office space in the E-1 Residential Zone, or, in the alternative, a use variance allowing for the same; and (2) a variance of section 155 – 46 of the Village Code under which 11 off-street parking spaces are required and the applicant proposes to include no off-street parking spaces.

Board/Applicant Comments:

- Bruce Migatz, Esq. of Albanese & Albanese gave a brief history of the property and reviewed the specific requests before the BZA Board. He introduced Lauren Palatella, owner of Unleashed by the Bay, a pet supply and dog grooming store. Migatz presented Several exhibits as follows:

Exhibit 1: Certificate of Occupancy dated 4/8/60 for 5A Sintsink Drive East;

Exhibit 2: Village building records for 5A Sintsink Drive East;

Exhibit 3: Manorhaven 1978 Zoning Map;

Exhibit 4: Building Permit Application dated 9/1/1959;;

Exhibit 5: Manorhaven Local Law Chapter 155, Section 13 – Industrial Districts – Dated 8-25-79;

Exhibit 6: Manorhaven 1988 Zoning Map;

Exhibit 7: Manorhaven Local Law Chapter 155, Section 22 – Industrial Marine Zoning - Dated 1-25-87;

Exhibit 8: Manorhaven Sign Permit dated 1-15-88

Exhibit 9: Business card for Creative Furniture Inc.;

Exhibit 10: Manorhaven Local Law Chapter 155, Section 40 dated 1-27-87;

Exhibit 11: Letter from Building Superintendent dated 7-7-04 regarding lack of a Certificate of Occupancy;

Exhibit 12: 200 foot decibel map for the area around 5A Sintsink Drive East. Builder would build a second interior wall with sound-proofing.

- Attorney Bruce Migatz commented on each of his exhibits presented to the Zoning Board.

- Patrick Gibson commented that the Board is looking for a STC of 60 and asked about dog walking and how much dogs would be outdoors.
- Laura Palatella noted the dogs would be walked in the run only, one dog at a time, and an attendant would be on the premises 24 hours a day.
- Bruce Migatz discussed the parking variance request. He feels that four onsite parking spaces should be enough with all the on-street parking that is available. Andrew Levenbaum, BZA engineer confirmed that 11 spaces were required. Migatz continued by discussing S2 occupancies.

PUBLIC COMMENT:

- Rita Di Lucia said that she is in favor of opening a kennel in the current location. She agreed that parking is usually for drop-off and is a quick stop and parking should not be a problem. She is currently an Unleashed client.
- *Motion to close public comment by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.*
- *Motion to reserve decision to accept or deny application until the May 14 meeting by Jerry Devine; seconded by Jerry Volpe; motion unanimously carried.*

Z-592 - 55 Kirkwood Road, Port Washington, NY, 11050, S-4, B-42, L-151 in Zone R-1. Applicant , Isaac Zarabi, seeks a variance: (1) from section 155 – 13.1 (L) of the Village Code in order to construct a two – family house with only two parking spaces when under the Village Code three on-site parking spaces are required for occupant use; (2) from section 155 – 30 (F) of the Village Code in order to include paved area in the front yard of the subject property covering 57.19% of the front yard when the Village Code provides that the maximum paved area in the front yard shall not exceed 50% in a residential zone; (3) from section 155 – 35 of the Village code in order to construct two emergency escape and rescue opening window wells which will project into the required side yard by 3.36 feet when the same are not permitted to encroach into required yards; and (3) from section 155-6 in order to allow for a separate dwelling unit in a cellar when said section does not allow a principal use in a cellar.

Board/Applicant Comments:

- Todd O’Connell representing Mr. Zarabi, explained that they were 6 inches short to provide proper parking, even after removing the chimney. He discussed the below the ground egress as having no impact on the neighborhood. He noted that the basement would not be a principal use, and drawings meet NYS standards. Building a second floor is not an affordable option for the applicant.
- Patrick Gibson commented that Manorhaven restricts cellar apartments.
- Jeffrey Blinkoff, Esq. clarified that State Code differs from Village Code.
- Isaac Zarabi said that he bought the house because it is in a two-family zone. He felt it would not be fair if the BZA did not grant him the parking variance and would ask his attorney for assistance if the basement apartment is not granted. He noted that the ceilings are drawn to reflect 7 foot, 3 inches.

PUBLIC COMMENT:

- Silvio Di Lucia has no problem with the applicant building a two family if he wants to build up, but does have a problem with a basement apartment.
- Mike Masiello asked whether the basement complies with Village Code. He noted that Manorhaven has been trying to get rid of them and that they are hard to inspect and is concerned about a basement as a living space.
- Todd O’Connell said the applicant is asking for permission for a legal apartment.
- Bill Rogel, Building Superintendent, reported construction by the applicant on the property. Unlicensed plumbing contractors were working on the premises and the egress was “cut out” all without permission. He issued the owner three tickets that day.
- *Motion to close public comment by Jerry Volpe; seconded by Jerry Devine; motion unanimously carried.*
- *Motion to reserve decision to accept or deny application until the May 14 meeting by Jerry Devine; seconded by Joseph Zimbardi; motion unanimously carried.*

ADJOURNMENT: 8:05 p.m.

- Motion to close the meeting by Joseph Zimbardi; seconded by Jerry Devine; motion unanimously carried.

SHARON NATALIE ABRAMSKI, RMC, CMC

Village Clerk-Treasurer, Secretary to the BZA

Dated: April 16, 2019