



**VILLAGE OF SUFFERN
ZONING BOARD OF APPEALS MINUTES
AUGUST 3, 2023**

Attendance: Cary Adwar, Member
Bruce Simon, Member
Lisa Wilson, Member
Andrew Zavoski, Member
Robert Magrino, Assistant Village Attorney
Melissa B. Reimer, Village Clerk

Absent: Barry Tesseyman, Chairman

CALL TO ORDER

Mr. Simon called the meeting to order at 7:35 P.M., led everyone in the Pledge of Allegiance, and asked everyone to please remain standing for a moment of silence for all those who serve bravely and valiantly.

155 Lafayette Avenue LLC – Z2023-03

Re: 155 Lafayette Avenue

To permit the enlargement of driveway.

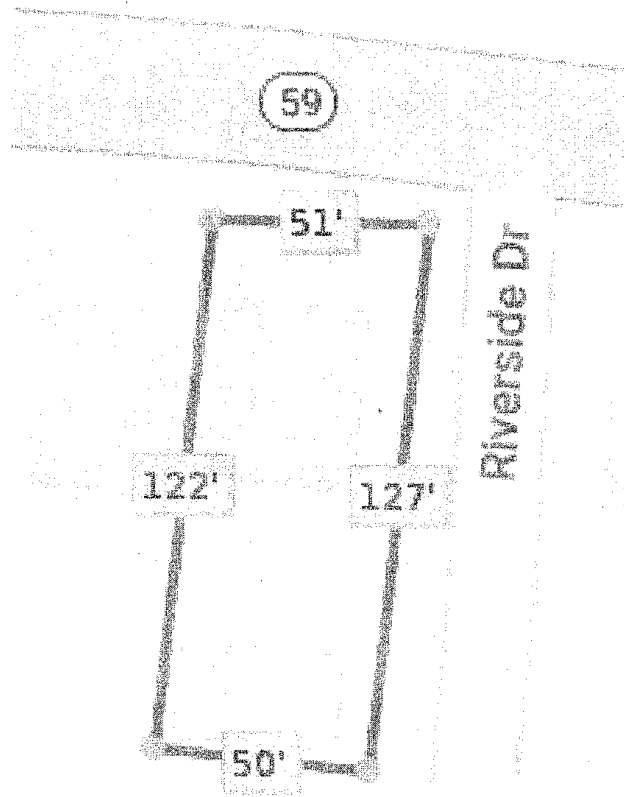
Member Bruce Simon read the public notice into the record. He affirmed Hana Kogen of John Leaf Lane, Chestnut Ridge, NY.

Ms. Kogen is the manager and the applicant for the property at 155 Lafayette. She stated that the parking is very tight in the Village and the property is situated on a very busy intersection, they found that the parking is inadequate for the needs of the building.

She explained that they understand that there are rules and regulations in the Village. They have to do their best to comply. She started to discuss “Property Development Rights Transfer.” This, Ms. Kogen explained, is when an owner would like to develop one parcel more than the municipal regulations and in exchange the other one will be less developed.

Ms. Kogen approached the Board and was not understood. She handed the Board a packet of diagrams. Please see the attached below.

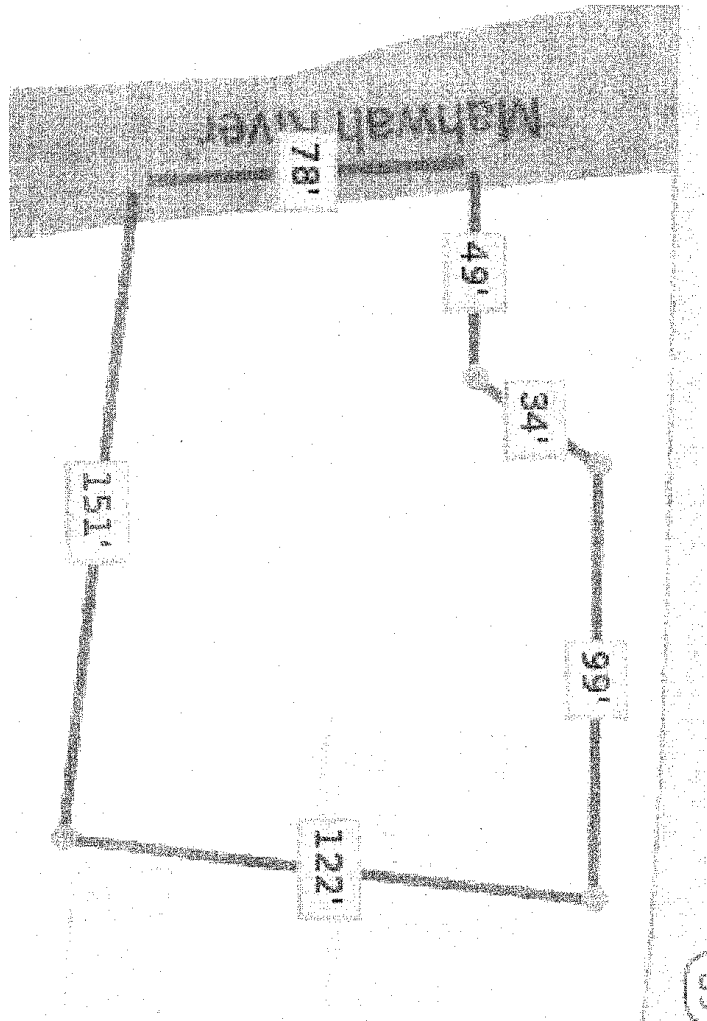
≈ 155'



lot A: 6,250.

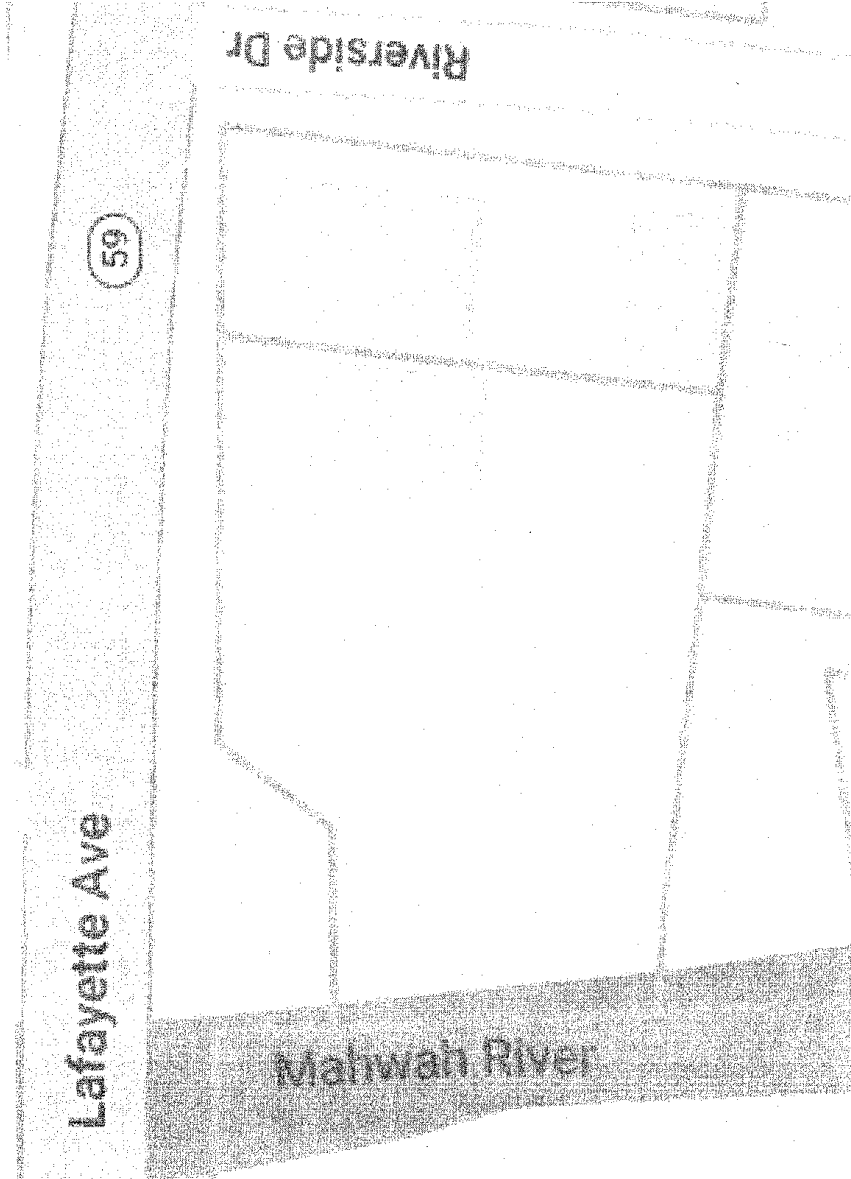
Cor. Prop. 46.4% or 2,900

#153



Lot B: 14,800
Dev: < 1200.

643 A+B



Area 21,050. Dev. Prop. 4,100 Cost % < 19.5%

Ms. Kogen explained that these are the plans. The first page shows the lots of 155 Lafayette Avenue and that is approximately lot area 6,250 square feet. The lot development (house, driveway, walkway) is about 2,900 square feet and that is 46.4%. It is way above the allowed percentage or the permitted coverage.

The next one is 153 Lafayette, belonging to the same owner. This property is approximately 14,800 square feet and the only development is the house of 1,200 square feet.

The third page combines those numbers. If you combine those numbers the combined is 21,000 square feet with only combined development of 4,100 square feet, which is 19.5% development ratio.

Ms. Wilson asked, "Do you own both of these parcels?"

Ms. Kogen reiterated that she is not the owner but said that the owner was present, and he owns both.

Mr. Zavoski asked, "How many tenants live at 155 Lafayette Avenue location?"

Mr. Simon affirmed Mr. Mordechai Weiss of 11 Weiner Drive, Monsey, New York 10952.

Mr. Weiss stated that the house is a legal two-family rental. He stated that the attic is finished and is being used as a third unit. He is currently dealing with his tenants. The other two units, one is a two bedroom, and one is a one bedroom. There are at least 4 people so there are at least four (4) cars.

The old driveway was for two (2) cars. Mr. Weiss stated that you cannot park on Lafayette, and you cannot park on Riverside. There is no way for them to park. "Today everyone has cars. All I am asking for is one parking spot." Mr. Weiss repeated Ms. Kogen's argument about the development if you combined both properties.

Mr. Simon asked a follow-up question to Mr. Zavosky's question. He stated that you told us how many bedrooms you had in each unit, but you never told us how many people you had in each unit.

Mr. Weiss asked to speak to Hanna to find out the number of people. Mr. Weiss stated, "In the first two floors is seven (7) people, upstairs is one (1) or two (2). So together it was seven (7) people. I believe two (2) of them are kids. So, a total of five (5) adults and two (2) children."

Mr. Simon stated that Mr. Magrino, who is not a voting Board member, had some questions.

Mr. Magrino asked, "So did you say that there's somebody occupying the attic?"

Mr. Weiss answered, "There is somebody occupying the attic."

Magrino, "You know that is not permitted."

Weiss, "We are about to tackle it. I mean there are tenants there. There are tenants that we will have to get out."

Magrino, "Are they paying rent to you?"

Weiss, "They pay rent to me, yes."

Magrino, "Oh, this came about because of Code Enforcement."

Weiss, "Correct."

Magrino, "You know that you have been due in Court, but you missed some court dates, right?"

Weiss, "That's correct."

Mr. Magrino stated that the next Court date is on August 29, 2023. He stated that Mr. Weiss was committed to being in Court on the 29th and Mr. Weiss agreed.

Magrino, "Before the 29th, you are going to have them inspect?"

Kogen, "We have inspected. (Ms. Kogen referred to the Village Code Enforcers sitting at the back of the auditorium). Those gentlemen, over there, are the ones who inspected the first-floor apartment. It was found that the bedrooms are such a size that one of them can accommodate two adults, two people, as per New York State Code. The other one can accommodate one. Then we had a discussion about the common area of the apartment, and we had a disagreement, which is still standing. And the agreement was as follows, the Building Inspector came to measure the kitchen floor area and insisted on skipping the areas occupied by appliances, sinks, and cabinets of the kitchen. Their number came very low. Well, I have seen research of that topic and I found that nowhere in New York State or Federal Building Codes and Regulations and definitions is the floor ratio of any room, including kitchen, calculated excluding any installed fixtures, furniture, etc. So, I have written an email to the Building Inspector regarding that, and I stated our understanding. I have not gotten the response."

Magrino, "That is a separate issue on that, but so the attic...how many people are in the attic or renting the attic?"

Kogen, "The people above the attic, so in the attic and the people about that are people who we cannot get out. I have never gotten any requests to inspect the attic from the inspector even when he will ask me, I will, obviously ask the owner and do what the owner instructs me to do."

Magrino, "Do you know how many people are in the attic? How many tenants in the attic?"

Kogen, "There is a lady, she may have her boyfriend coming up once and awhile, but there is a single lady there."

Magrino, "One person there?"

Kogen, "Yeah, that's what I'm dealing with as a pain in the neck. I would love her to go, and this would become a one apartment, but it's just impossible to get out."

Magrino, "So are you okay, Sir, with the Code Enforcement officers having them take a look?"

Weiss started to speak from the audience and then he walked to the podium. "I cannot assure that the tenants will cooperate we want to get them out and make both apartments floors together as one apartment because it's only two legal two-unit buildings, so from my end I'm fine.

Magrino, "Ok. I'm sorry, I have one other... the next-door property, you said, you own, correct?"

Weiss, "I own 153 Lafayette."

Magrino, "What's there currently?"

Weiss, "What?"

Magrino, "What is currently there?"

Weiss, "I bought it from someone, I bought it from a foreclosure. There are two...we actually have, yesterday or two days ago we had..."

Magrino, "I mean, what type of building?"

Weiss, "It's also two units."

Magrino, "A two family?"

Weiss, "A two family, sisters. One unit on the first floor and one unit on the second and third floors. It's a very similar house. It's like it's built at the same time and the same but that property the land is way bigger. 153 is way bigger lot than 155."

Ms. Wilson, "Each property has to stand on its own merit; its own area; its own coverage. The lot next door, unless it was a parking lot, would help you out. My next question is that you have a garage here with two spaces what's going on with that?"

Weiss, "The garage cannot fit a normal car. It is used for storage, basically."

Ms. Kogen explained that the tenants have very little storage, especially on the second floor, so they use the garage for storage. She stated that the only car that can fit in the garage is a compact car. The tenants, she explained, are "working people" that work construction. They have big trucks. There is no pavement at 153, it's gravel.

Weiss stated that in the beginning there would be a car parked in the garage, the garage open, and the car sticking out of the garage. This is why they made another parking space. It is still not enough, but...

Mr. Wilson said that you are coming here to ask us to allow you to pave for another car, but you have a perfectly good standing garage that you can park two cars.

Mr. Weiss answered that the tenants do not have cars that will fit in the garage. He also pointed out that the picture that the Board is looking at already has additional parking.

Ms. Wilson acknowledged that fact and stated that the applicant put the driveway in without a permit to begin with, is that correct? Mr. Weiss said that in fact did.

Mr. Simon commented that it was a novel idea to put the two properties together, but they are to look at each property separately, especially the property in question, which is 155. Mr. Simon pointed out that they were above the permitted coverage before the addition to the driveway and now they are at 46.4%. They did this without permission. He stated that there are many people in the Village that would find that problematic.

Mr. Simon agreed with Ms. Wilson; there was a perfectly good garage. If it does not fit the tenants' vehicles that is not an issue that this Board ought to address. There is a garage there.

Mr. Simon stated that Mr. Weiss was going to remove tenants, but Mr. Weiss said that he will have more people not less. Mr. Simon stated that the first floor is registered as a one-bedroom unit. It has come to our attention that currently there are three (3) bedrooms in that unit.

Weiss, "Ok."

Mr. Simon, "Without permits. Without building permits, without any check on codes or anything else like that. If there was only one bedroom there, that mitigates the need for the extra parking."

Weiss, "The tenants used the living room as a bedroom without our permission and we already (very straight forward with them) it's in the lease, that they cannot use that as a bedroom." Even a one bedroom, Mr. Weiss said that you will still have two cars. It's a tiny six by nine - one parking space for the tenants. He said that he should be able to because

they cannot park on Riverside or Lafayette. He feels it's reasonable.

Mr. Simon brought up the paperwork from the application from the Rockland County Drainage Agency – lacking information to make a final determination. Although they did weigh in on the matter. All information was not given.

Ms. Kogen answered Mr. Simon and said, I actually had a very hard time understanding his comment. There was something about environmental statements that the rattlesnakes are going to be affected by this extension of them of the pavement and what I did actually probably did the wrong thing, but I just tell you what I did because that's what I did. I called the Village Clerk and I said 'Melissa what am I going to do with it? I don't know to the best of my understanding there are no rattlesnakes on the property and if there were any rattlesnakes they would probably be killed immediately because they are dangerous to the people. And she told me you know what you're going in front of the Board and let the Board decide and even if they have problems with how you filled up about environmentals, you can fix it up later.

(Please note: Melissa Reimer, Village Clerk and Ms. Kogen never spoke about rattlesnakes or environmental reports. The Suffern Village Clerk never gave Ms. Kogen advice to go before the Zoning Board of Appeals with incomplete or wrong information.) There are e-mails directing Ms. Kogen to get in touch with Rockland County for missing information.

Mr. Simon told Ms. Kogen that the Rockland County Drainage agency said that if you follow all the instructions on their website, all the questions would be answered. It would allow them to make their determination. He asked if she had done that.

Ms. Kogen answered yes that she had printed the form and filled it out. She stated, "That's what they told me to do." Ms. Kogen stated that she had a difficult time and did not know how to complete the application.

Mr. Simon stated that he will take that as a no.

Mr. Magrino reviewed the criteria for disapproving the application.

Ms. Wilson made a motion to disapprove of the application, Mr. Adwar second the motion to disapprove the application. Ms. Wilson stated the basis for disapproval of the applicant is allowing the building to be overpopulated, they have a garage with accessible parking spaces. The parking situation on Lafayette and Riverside was the same when you purchased the houses. This is nothing new. Ms. Wilson added that she believes that this could set a precedent. If we were to allow this for one homeowner, we would have to allow it for others. Mr. Zavosky added that he was concerned about the runoff with all the asphalt on the property. From an environmental perspective, there is a concern. Mr. Adwar agreed.

All in favor, none opposed. Motion passes.

Ms. Kogen spoke and commented that the Village is not user friendly. There should be a more relaxed approach. Mr. Weiss mentioned that no one came, and no one had a problem with this application. It was a small addition.

MOTION TO APPROVE MINUTES FROM MARCH 30, 2023, ZONING BOARD OF APPEALS MEETING.

A MOTION to approve the Zoning Board of Appeals minutes of March 30, 2023, was moved by Ms. Wilson, seconded by Mr. Zavosky, with all in favor.

Ms. Wilson asked if we heard from Mr. Landau and his application. Ms. Reimer answered that she had not.

ADJOURNMENT

A MOTION to adjourn the meeting at 8:11 P.M. until Thursday, September 21, 2023, at 7:30 P.M. at the Suffern Village Hall, was moved by Mr. Zavosky, seconded by Mr. Adwar, with all in favor.

Respectfully,

Melissa B. Reimer, CPA
Village Clerk