

**UNION VALE ZONING BOARD OF APPEALS**  
**Minutes of the Regular Meeting**  
**7:30 pm**

**April 6, 2021**

Members Present: Chairperson Jane Smith and Board members Dennis Dunning, Michael McPartland, and Ilana Nilsen

Member Absent: John Hughes

**CALL TO ORDER / DETERMINATION OF QUORUM**

Chairperson Jane Smith determined that there was a quorum for the Zoning Board of Appeals (“the Board”) to conduct business and called the meeting to order.

**CORRESPONDENCE**

Chairperson Jane Smith stated that she received a copy of a “Reference Letter” with regard to the Millbrook Inn from Pat Cartalemi, Planning Board Chairman dated February 18, 2021. He wrote that the Planning Board “is sending over the package for the Millbrook Inn to the Zoning board for its review for certain variances,” that, after multiple meetings and plan revisions, the applicant had “addressed most concerns that have come from the consultants and board members,” and that the Planning Board would be submitting the “latest plan to the County and all interested and involved agencies and that the Planning Board expect to “move this application ahead at the next meeting and schedule a public hearing.”

**BUSINESS SESSION**

Board member Dennis Dunning offered two corrections to the March 11, 2020 regular meeting draft minutes. Motion by Board member Ilana Nilsen to accept minutes as amended, seconded by Board member Dennis Dunning; unanimously approved.

Board members reviewed the 2021 schedule for regular meeting dates and agenda deadlines, and members unanimously approved the schedule with two revisions: the September and December meetings to be scheduled for September 14, 2021 and December 14, 2021.

**PUBLIC HEARINGS:**

None

**REGULAR SESSION / NEW BUSINESS**

**Meeting -1**

**Millbrook Inn, Owner Yvette Fromer, Applicant Jess Nahon, 3 Gifford Road, Millbrook, NY,** applying for area variances in order to make improvements to an existing Inn in the RD-10 district, including the additions of a Guest room, an Innkeeper's quarters, spa, and pool, and improvements to the existing dining and parking areas.

Chairperson Jane Smith welcomed the owner, the applicant, and Mark Olsen of olson + partners, Inc., architect.

Board Member Ilana Nilsen advised that her husband is a building contractor and there was a possibility that he might seek to work on the project should it go forward. Without objection to her continuing to participate in the decision of the Board as to whether to accept the application, she agreed to revisit the question of whether recusal would be appropriate in light of the then existing situation before participating in any public hearing on the application.

Chairperson Jane Smith noted that the revised application before the Zoning Board (dated March 18, 2021) indicated a request for two area variances, but the precise variances that were being requested were not identified. Based on the determination letter from Code Enforcement Officer George Kolb dated March 15, 2021, it appeared – and Mr. Olsen confirmed -- that the applicant was seeking two variances from the minimum setback requirements for parking areas as set forth in the District Schedule of Area and Bulk Regulations: a 55' variance from the 75' required in the front yard; and a 35' variance from the 50' required in the side yard.

Chairperson Smith pointed out that, in addition to the setback requirements in the District Schedule, there were specific code provisions that set forth setback requirements for parking areas: Section 210-56(E)(8)(h) (which requires that any Inn parking be 100' from the property line), and Section 210-25(B)(3) (which provides that parking cannot be closer than 25' from land within a residential district). She also noted that, pursuant to Section 210-59(A)(5), the Planning Board can waive any of the requirements set forth in Section 210-56.

After discussion during which Mr. Olsen raised the possibility of altering the plans to accommodate the 25' requirement, the applicant agreed to amend the application not only to identify the extent of the requested variances as relating to the District Schedule setback requirements, but also to include a request for variances from Section 210-25(B)(3) (which conceptually, all agreed, would be subsumed within the requests for the 55' and 35' variance requests from the District Schedule setback requirements). With respect to the Section 210-56(E)(8)(h) 100' requirement, Chairperson Smith stated that she would formally request that the Planning Board make a determination as to whether to waive the 100' requirement pursuant to its authority under Section 210-59(A)(5); she also would ask the Planning Board to provide the Zoning Board with specific recommendations as to the variances requested by the applicant.

In connection with the setbacks for parking, it was also noted that, in his March 15, 2021 determination letter, CEO Kolb referred to Section 210-37, which mandates a 25' landscaped

buffer area on all properties developed for nonresidential uses to screen and protect residential properties from the view of parking areas on the site. Mr. Kolb urged the Board to consider whether a variance from this provision might also be required.

In addition to the setback issues, a question was raised as to whether a variance was needed for the minimum open space requirement set forth in the District Schedule of Area and Bulk Regulations; in the RD-10 District, the minimum open space requirement is 85% of the property. Board member Dennis Dunning noted that, in a previously issued determination letter (dated January 21, 2021), CEO Kolb had signaled the need for a variance from this requirement. (He wrote, "Calculations provided by the applicant determined that lot coverage as proposed is at 82% due to the revision to the parking area. Therefore, an Area Variance of 3% is required to be obtained from the Zoning Board of Appeals.")

Chairperson Smith noted that, contrary to the assertion made in response to question #7 in the application that an "Area variance was issued in 2006 allowing the use of the inn to be under the 85% minimum open space," the minutes of the (February 1, 2006) Zoning Board meeting showed only the grant of an area variance to allow the inn on a 3.20 acre parcel; there was no reference to the minimum open space requirement. Discussion of this issue led to the revelation that the materials provided to the ZBA reflected prior versions of the plans which subsequently were updated after additional discussions between the applicant and Mr. Kolb and Town Engineer Tom Harvey. (For example, the legend on Drawing L-000.02, showed 37 proposed parking spaces, and made no mention of the minimum open space requirement. This drawing also mistakenly identified the parking lot on Camby Road, not Gifford Road.) The applicant conceded that the minimum open space requirement was not met, and agreed to amend the application to include a variance request that would specify the extent of the minimum open space variance needed; the applicant also agreed to provide corrected plans and related application materials. Chairperson Smith advised that there would be an additional fee to process the additional variance requested.

In his determination letter, CEO Kolb suggested that the Board consider restricting parking to the proposed on-site lot, and prohibit parking on all public and private roadways. In this connection and in connection with the parking space calculation made by Mr. Kolb, various Board members sought clarification of the following statement made in the materials submitted by the applicant: "Dining capacity inside the restaurant is 30 seats. In addition, we will allow private events for up to 30 people as well." The applicant explained that any guests at a private event would be in lieu of, not in addition to, the 30 restaurant patrons. Furthermore, any such private event would require a special permit and, with regard to parking required for such an event, this would be handled in connection with the permit process (including potential off-site parking).

After additional clarification of the dimensions of certain elements of the proposed plan, and with no further questions from the Board members present, Chairperson Jane Smith offered the following procedural resolution:

## DRAFT COPY

The Town of Union Vale Zoning Board of Appeals hereby acts as follows on the Application of Jess Nahon on behalf of Millbrook Inn owner Yvette Fromer, 215 E. 68<sup>th</sup> St. 15L, NY NY:

1. Agree to accept an amended application and site plan if filed by the applicant by April 12, 2021, for 2 variances from the setback requirements set forth in the District Schedule of Area and Bulk Regulations for a parking lot at 3 Gifford Rd., Millbrook, NY – a 55’ foot variance from the 75’ set back requirement in the front yard, and a 35’ foot variance from the 50’ side yard requirement – and, at the same time, 2 variances from Code Section 210-25(B)(3) and allowing parking closer than 25’ of land within a residential district; and 1 variance from 85% minimum open space requirement set forth in the District Schedule of Area and Bulk Regulations to allow for 81% open space;
2. Classifies the application as “Type II Action” under NYCRR Part 617.5 and as such is precluded from environmental review under SEQRA;
3. Schedules a Public Hearing on the Application for **Tuesday, May 4, 2021, at 7:35 pm** and directs the secretary to provide timely notice thereof;
4. Advises the Applicant that all costs involved in notifying the Public shall be reimbursed to the Town of Union Vale;
5. Advises the Applicant that a visit to the premises may or may not be scheduled.

Motion to accept the resolution made by Board Member Ilana Nilson, seconded by Board Member Michael McPartland, and unanimously approved.

### **OTHER BUSINESS**

Chairperson Jane Smith advised the Board members of a possible information session with Dutchess Land Conservancy. All members present expressed an interest in attending.

### **ADJOURNMENT**

As there was no further business, a motion was made by the Chairperson Smith, seconded by Board member Ilana Nilson, and unanimously accepted by the Board, to adjourn the meeting at 9:00 p.m.

The next regular meeting of the Zoning Board of Appeals is scheduled for **Tuesday, May 4, 2021, at 7:30 PM.**

The agenda will close on **April 22, 2021, at 12:00 Noon.** Items for consideration at the **May** meeting must be received by that date.