

**VILLAGE OF MONROE
ZONING BOARD OF APPEALS
MEETING
APRIL 10, 2018
MINUTES**

PRESENT: Chairman Baum, Member Margotta, Member Martuscelli, Member McCarthy and Member Zuckerman; Building Inspector Cocks; Kelly M. Naughton, Esq.

ABSENT: None

Chairman Baum called the meeting to order at 8:05pm with the Pledge of Allegiance to the flag.

1. Hatov Springs, LLC – Determination – 207-4-15

Present: John C. Cappello, Esq., Michael J. Sandor, Engineer, Mr. Joel Goldberger (CEO for Hatov Springs, LLC) and Mr. Schlomie Neustadt (Sole member Hatov Spring, LLC)

A determination pursuant to the requirements of Section 200-62(C) “Change”, to permit the nonconforming use of a building to be changed to another nonconforming use which is of the same or of a more restrictive nature in the URM zoning district. The previous nonconforming use of the property was a laundry service. The proposed use is a retail food store.

The property is located in a URM Zoning District and is Section 207, Block 4, Lot 15 on the tax map.

This is a continuation of the public hearing on February 13, 2018 which was adjourned to give the applicant time to get more information for the Board. The applicant submitted three additional pieces of information:

1. An affidavit by Steven Gottlieb, marked as Exhibit D
2. An affidavit by Joel Goldberger, marked as Exhibit E
3. A conceptual site plan, marked as Exhibit A

Mr. Cappello began by saying Hatov Springs, LLC bought the building at 129 Spring Street that formerly housed a commercial laundry service which up until the recent change in zoning was a permitted use. After the zoning change it became a non-conforming use because it was changed to a URM zoning district. Under Section 200-62(C) it is for the Board to determine when there is a valid existing non-conforming use that is being changed to another non-conforming use to make an interpretation that it is of the same or of a more restrictive character. We are not arguing that this is the same use, we’re arguing that the use of a grocery store that will serve mostly deliveries and have

some limited walk-in services, that will be mostly accessed by vans, is actually more conforming to a URM multi-family residential zoning district than a commercial laundry service which was a heavy water user, a heavy sewer user, a more industrial-type of facility than a grocery store.

We're not here asking for a variance or a change in zoning. We're asking for a determination under that particular section that this use is more consistent and more conforming than the laundry facility use which was more commercial and a more industrial use. Mr. Cappello further said that a laundry service could continue to operate in that building if someone wanted to.

Mr. Cappello said he and Mr. Sandor have provided the Board with more information including affidavits of both the prior user and the current user of the actual water and sewer uses. The Board had also asked about the specifics of the site plan and how it's going to be operated. Mr. Sandor provided that to you knowing that even if you were to determine that we can go forward that this is still a change that would require site plan approval. We would go to the Planning Board for a more site-plan specific review.

Mr. Sandor began by saying he was following up on some questions raised by the Board and members of the public at last month's meeting. First of all he said that he has provided a conceptual site plan. The existing building is shown on the site plan which shows how parking would be arranged as well as "circulation" (of cars). Regarding the traffic light at the front, he said that he spoke with the consultants Creighton Manning who advised that some improvements would be required for that light including another signal as you exit the property. The other thing required is a sidewalk across the entire front of the property because this is a Village street now. It used to be a County highway. The building size is 10,200 square feet. There is a mezzanine in it which is a small part of the building (Mr. Sandor did not have the size). The question came up what percentage would be retail versus storage? The owners think it would be about 50/50. As far as natural gas usage, the previous owner gave Mr. Sandor a value of 23,500 cubic feet of natural gas used per month. Obviously that was for hot water use. Schlomie's would not use anywhere near that. The water use was 50,000 gallons per day, a tremendous amount of water. Schlomie's uses about 200 gallons per day. It's no where near what was previously used in that building. Comparing that to single-family houses that would be about 200 single-family houses that use about 200 gallons per day. That's the actual use. As for the question of truck traffic, there is an 11-ton weight limit on North Main Street and Spring Street except for local deliveries.

Member Zuckerman asked if there would be any trucks over 11 tons? Mr. Sandor said yes. Member Zuckerman suggested that Mr. Sandor read the Village code. The section on local deliveries states local deliveries for residential purposes on the same street. It starts off on North Main Street and ends up on Spring Street – that's not on the same street. And secondarily, the section reads 11 tons for residential purposes but this is for a commercial purpose. Mr. Cappello said if the truck is for commercial traffic and there is an alternate way to get to that facility to make deliveries without going through those

streets where there is a weight limit those trucks would have to use the alternate route as long as it's reasonable.

Mr. Sandor continued saying that the owners said Schломie's would be using four to five box-truck deliveries and an occasional tractor trailer three days a week, and two box trucks per day on the remaining three days a week. This translates into 22 trucks per week. The previous owner had 56 trucks a week. Therefore the truck traffic would be a lot lower. There was a question about how they would get to the site. They would probably come off Route 17, the Quickway (Route 6), North Main Street or they could come down through Spring Street. That's how they would access the facility. There is a height limit of 11' 6" under the old Erie Railroad Bridge. Mr. Sandor said that a tractor trailer or box truck would not be able to make that. The primary entrance to the property would therefore be North Main Street or Spring Street as was the case with the previous owners.

Regarding walk-in customers, Mr. Sandor said this will be a retail business while the laundry didn't have any walk-in customers. Mr. Sandor said that the grocery store would have six delivery vans. Mr. Sandor submitted a photograph of a Schломie's delivery van to the Board. The laundry operated seven days a week while Schломie's will operate six days a week.

Chairman Baum interjected at that point to say he would label the conceptual site plan Exhibit A for the record, the photograph of the Schломie's van Exhibit B1 and another photograph of a Schломie's van was labeled Exhibit B2. Mr. Sandor also gave the Board an aerial photograph (a google map) of the site showing the building and where it sits with relation to other buildings. This was marked as Exhibit C.

Mr. Sandor said that at the last meeting there was a question about the activity of the vans. They have six delivery vans that usually make four trips per day. The question came up from the public would there be truck traffic on some of the local streets? Mr. Sandor said there would be no truck traffic on Franklin Street.

Attorney Naughton commented that on the conceptual site plan, Exhibit A, that was provided there are two lots included but nothing was proposed on the second lot. Attorney Naughton directed Mr. Sandor to remove the second lot from the site plan. Mr. Sandor said he would do that.

Member McCarthy talked about increased traffic in the area. He said we're talking about six deliveries a day making four trips a day, that's 24 a day, times six for the week is 144 trips a week. So that's an increase in traffic. And, it doesn't consider trucks making deliveries to the facility or customers coming to the facility. We're talking about the near-term. One of the projects that has been targeted for most of the deliveries will be in Kiryas Joel. The point is, one project over there is going to have 1,500 new homes. According to the newspapers, etc. in the news, there could be five to 10 more people per home, so you're talking 15,000 more people. So you're talking increased deliveries and trucks in the area to supply the customers. So it's an increase in traffic. Mr. Capello

noted that this is not the only Schlomie's in the area. Member McCarthy suggested that perhaps they could find space in Kiryas Joel as it is right in the heart of their customer service.

Member Margotta said that the other facility would not increase traffic to Franklin and North Main Street but this facility might with their delivery vans? Mr. Cappello responded that the delivery vans are permitted vehicles and they are permitted to be used. Member Margotta said that's not the question. The fact is there are going to be 24 deliveries a day and most likely they're going to be using Franklin Avenue from this location. Mr. Cappello said yes. He also said that you have commercial vehicles and trucks accessing those roads. What is the difference where they go? Whether this is a commercial facility or grocery facility, who buys it is irrelevant. You have a building located in an area that is commercial where the use is at a high rate. Mr. Cappello said that he believes that the grocery is more conforming to the code than the industrial use of the laundry facility.

Member Zuckerman said that Section 200-63 of the code states that no building which houses a non-conforming use can be structurally altered or enlarged. He asked if they will be able to do this without structurally altering or enlarging the building? Mr. Sandor said the footprint will be the same. Member Zuckerman asked if the building would be structurally altered? Mr. Sandor said no. He said they will not alter it from the exterior but they will alter it from the interior. Mr. Cappello said the structure won't change. Mr. Sandor said the roof and exterior walls will be the same.

Member McCarthy asked if there is any management of the old Unitex operation involved in anyway whatsoever with this new facility? Mr. Cappello said no. They provided the information regarding the usage. Member McCarthy asked about the information provided about the water and sanitation service. Why are there dollars projected there, why were past due bills redacted? Mr. Cappello said he didn't know whether or not they owed money. The question is the use of the building, not who uses it. We were asked about the intensity of the use not who the user is. That is not something zoning goes to. Member McCarthy asked again whether the former owners or management at Unitex are not in any way whatsoever involved with this? Mr. Cappello said no.

Member Zuckerman brought up the point that this laundry was closed ten years ago. What has been happening in this building for the last ten years? Your conceptual talks about a warehouse/laundry. The information you give us in terms of water and gas usage and trucks has to be at least ten years old. George Bush was still president. Mr. Sandor said that his information comes from the previous owner. Member Zuckerman said that the problem with the affidavit is that there are no dates. There is nothing to say when the water usage was at that particular date. He said this particular laundry started in 1972. It was a lot busier then than it was in 1980. In 1972 they used to do West Point. In 1980 they didn't do West Point, they began to do only long-term medical facilities and hospitals. This information comes from their website. And obviously the water usage in the last 10 years cannot be this high since there was no laundry there.

Mr. Cappello said the question is the intensity of use. Up until the time the new zoning code was adopted a year ago that facility was approved and existed and permitted for a commercial laundry facility. Therefore today if a person came in there and wanted to do a commercial laundry facility whether they deliver to West Point, KJ, Rutgers in Jersey, whoever they deliver to, they would be able to operate that facility and use the water and sewer. Whether they did it 10 years ago or not, they could do it today without requiring any approval from this Board. Attorney Naughton said that Member Zuckerman was perhaps trying to establish whether those figures were from when the laundry was operational and not when it was empty. He wants numbers that are relevant to when it was in a functioning capacity as a laundromat. Mr. Cappello said the numbers the Board has are relevant and he reiterated that the facility could be used as a laundry facility tomorrow. The water, sewer and natural gas use would be a much more intensive use than the proposed retail facility use would be, and there would be more intensive use as it relates to large truck traffic coming in and out of that facility than the proposed retail facility would have. It is a less intensive use proposed tomorrow than it could go in today.

Chairman Baum asked about Steven Gottlieb, the Chief Financial Officer. He asked if Mr. Gottlieb was available? Mr. Cappello said that the company doesn't operate in Monroe. Chairman Baum asked how long he's been a Chief Financial Officer? Mr. Cappello did not know. Chairman Baum said that the affidavit doesn't state that he has any personal knowledge of these things. He's making the affidavit based upon business records that he has reviewed. Chairman Baum said that he was hoping that somebody with personal knowledge of the operations would be available to the Board to answer questions. Mr. Cappello said that he can try and reach out to him. Chairman Baum said that's what the Board had asked for last time.

Member Zuckerman said that in the affidavit #6 refers to the "warehouse/laundry facility" and #12 says that the facility was also used as a storage facility for equipment, supplies and records up until the time it was sold to Hatov Springs, LLC. Member Zuckerman said that he would like to ask Mr. Gottlieb, what have they been doing for the past ten years. Has this changed from a laundry to a warehouse? Has it been a warehouse for the past ten years? Who are they storing the equipment, supplies and records for? That's not in the affidavit.

Mr. Cappello reiterated that they have a determination from the Code Enforcement Officer that this could continue as a laundry facility. That's why he's saying that the use they're proposing is of a more restrictive nature than the use that would be permitted to continue. The laundry structures are still there. Mr. Cappello again said it was of a more restrictive nature. He said that based upon observance you see that there are more grocery stores located in the vicinity of residential uses than there are commercial warehouses or commercial operations. A grocery store is more in keeping with a residential multi-family area than a large commercial operation.

Chairman Baum then said that the Board can't speculate about how the grocery store is going to operate. The burden is on the applicant to provide evidence, information and

documents upon which the Board can rely to make a determination as to whether or not the use for retail is going to be less restrictive, more or less intense. The burden of providing information is on the applicant. You need to present your information to us. We don't need to go find it. Mr. Cappello argued that it's general knowledge but the Chairman disagreed. Chairman Baum said if you speak to 100 people you'll probably get 50 different opinions as to whether retail use is more intense or less intense. He said that what he's hearing is that the traffic will increase in that area. Maybe it's not trucks but more cars coming and going to that location. The Chairman said the applicant needs to provide evidence.

Member Martuscelli questioned the water usage in the affidavits. Where it says 17, what does that mean? Mr. Sandor said that it is in thousands of gallons. So where it says 17 that would be 17,000 gallons. Member Margotta asked if the other facility was the same size? Mr. Sandor responded that normally the water use per employee is 15 gallons per day. Sometimes that number drops to 12. Member Margotta asked if it was going to have the same number of employees and customers? How is it relevant to the current application? Does the facility have the same number of employees and customers as the facility that is proposed or less? Mr. Sandor said he submitted that to give the Board more information. Member Margotta asked how this information was relevant? Would the proposed facility have about the same number of employees and customers? Mr. Sandor said yes. Member Martuscelli said that in the affidavit it says the water usage was about 50,000 gallons a day but there's no proof. He said that he could issue a statement saying that he uses 200,000 gallons per day. There's no proof. He said that he would like to see some documents showing the usage.

Mr. Cappello advised the Board to give them a list of questions with the information they want. He also said again that they should look at their zoning code. Look at how many districts retail is permitted in and how many districts industrial or warehouses are permitted in. Tell me what you think is the more restrictive use. Look in any zoning code in the United States and see what zoning districts warehouses or commercial uses are in what zoning districts retail are located in and tell me which one is more restrictive. I will tell you in 99 out of a 100 retail is permitted in many more zoning districts in just about every municipality in New York State than warehousing and commercial districts and why. You restrict industrial and commercial uses more than you do retail. That's what your code says, it's the use of a more restrictive nature. I will also go through your code, the Town's code and the codes in Orange County and show you what is generally a use that is less restrictive in nature and it will be an industrial-type use such as a commercial laundry facility versus a retail. The number of trips, the types of access, the roads that they are going to use, the intensity of the facility, those are items the Planning Board can look at as part of the site plan as well as do a SEQRA review and determine what potential impacts upon the neighborhood. We're talking about a retail use versus an industrial use. What is more restrictive in nature? It's a retail use.

Member Zuckerman said he's trying to see what's most restrictive. He said he doesn't see laundry, that's the problem. He also said while we should never use only assessor codes, this particular facility in 2017 was code 449 which is "of a storage, warehouse and

distribution facility.” Where’s the laundry? Mr. Cappello said it classified as distribution because they distributed laundry. That’s what it actually was. Mr. Cappello asked if warehouse and distribution facilities are allowed in more or less zoning districts than retail use? If they’re not then it’s more restricted.

Member Zuckerman said he doesn’t know if he should weigh laundry versus grocery store or warehouse versus grocery store. Attorney Naughton said that he should do what was last on file with the Building Department which was laundry service. Member Zuckerman asked, even though it has not been in existence for the last 10 years? Attorney Naughton said that was the last legally permitted use that the Building Department is aware of on site that a CO was issued for. Building Inspector Cocks said that it might have been in operation pre-certificates.

Member Margotta asked about the cemetery. He wanted to confirm that the cemetery doesn’t go into this property at all? Mr. Cappello said that was correct.

Chairman Baum opened the meeting up to the public and asked if any members of the public wished to come forward?

Lawrence Lezak, resident of the Town of Monroe asked if Mr. Cappello would agree that today is April the 10th and that if somebody wanted to utilize the property as a laundry they would have until June 14, 2018 to make that application because of the passage of the code and failing to do that they would have to appear before the Zoning Board to get clearance in order to operate that as a laundry? Mr. Cappello said no because they have an application in and the law says when you have an application in to the ZBA it holds any enforcement. Mr. Lezak continued, saying that if somebody wanted to make an application to utilize the property as a laundry on June 14, 2018 they would have to go through the same process as the people who are appearing before this Board now. Attorney Naughton said they would turn that over to the Building Department in the first instance so the Board shouldn’t be weighing in on it. Chairman Baum said if you look at the Building Inspector’s letter since the nonconformity began when the code was adopted on June 13, 2017 if the property isn’t used after a year you lose the right to the nonconformity. So he would think that if somebody came in on June 14, 2018 they would no longer have a nonconforming use. They would have no use. And they would need a zone change or a use variance. Attorney Naughton said they would defer to the Building Inspector. Mr. Cappello responded that the issue is once you’ve applied to the ZBA there is case law that says you hold it because otherwise you could delay a decision until June 15th and then say that time has passed and now we can’t render a decision.

Mr. Lezak said he had a question for Attorney Naughton. If the Building Inspector has made a determination based upon what has been utilized by permit as a laundry, if in fact in the last 10 years that location has been utilized as something other than a laundry unbeknownst to the Village, can that be taken into consideration when the Board is making its determination with respect to any applicant that appears before the Board? Attorney Naughton responded that they should be following what the Building Department’s records say. Otherwise that would have been an enforcement action at the

discretion of the Building Inspector so they should be following the Building Department's records. Chairman Baum asked if the question was if the use were changed to another use without any permits or approvals? He said the Board has to go by what was on the record, that it was a laundry, unless there is evidence that it was being used improperly for some other use over the last ten years.

Mrs. Jean Hansen of Franklin Avenue asked if anybody knew how much property was on the left-hand side of the building? Chairman Baum responded that parcel 2 was about 1.56 acres. Mrs. Hanson asked if a driveway could be put in the left-hand side of the building? She said she is asking because she wants to know if they intend to unload the large trucks by bringing the products into the building on the left-hand side or on the right-hand side? Chairman Baum answered that based upon the conceptual drawing, if you're standing on Spring Street looking at the building it looks like they're going to unload on the right-hand side. Mrs. Hanson said that is like it was before. Chairman Baum said there will be parking on the left-hand side. He emphasized that this is what is proposed. Mrs. Hanson asked if there was enough space on the left-hand side to be able to make a driveway going in there? Chairman Baum invited her to come up to the front to look at the conceptual site plan. He pointed out the unloading area on the right and the one-way drive around the building to the area on the left which exited to the street. Chairman Baum again emphasized that this is a conceptual plan that must be reviewed by the Planning Board before it can be done. Whether or not it will actually look like that is anybody's guess.

Mrs. Hanson asked where the traffic light was? Chairman Baum said he can't say because the traffic light isn't shown on the plan.

Bonnie Patrikis of Franklin Avenue also spoke before the Board. She said she has lived on Franklin Avenue since 1990 and was there when the laundry was functioning. She said that she does not recall a problem with the traffic back then. Ms. Patrikis said that we have a real concern about traffic and it's not just vans and trucks. It's foot traffic coming from Kiryas Joel to this store. We're talking about a bulk store, a grocery store. However people can walk up to it as well. It sounds like it's going to be 50/50. Ms. Patrikis said that she liked the fact that they would be putting a sidewalk in. This grocery store is right between North Main and Smith's Clove Park. Children there walk to school and walk to the park while we'll have all these vans going back and forth. Also, traffic has increased tremendously over the last ten years. There should be a traffic study on Spring Street. There's a real back up there coming home from work. She said that she cannot image tractor trailers going through there and delivering from that light. It's so tight, coming from the Village to make a left. It's going to be chaos. Even coming from the Village to make a left onto Spring Street it can sometimes take a while. She said that she is concerned.

Tony Cardone, a Town of Monroe resident, 498 Round Lake Park Road, also expressed concerns about the traffic. Mr. Cardone has been involved with Smith's Clove Park for a number of years. He said that traveling there after 4:00/4:30 there can be up to a 12- to 15-minute wait at that light in either direction. It's a major concern that has to be

addressed before any approval is given. Smith's Clove Park lets out their YAC programs in the summer at about 4:00 and it's a nightmare getting out of there. Pop Warner baseball, softball, hockey, they usually arrive between 4:45 and 5:00. That's when the two-way traffic starts, people coming in, dropping off and leaving. He said it's a major concern that has to be addressed.

Ann-Marie Morris, Village of Monroe resident, Five Coffey Road. Ms. Morris is also a Smith's Clove Park Commissioner. She wanted to add to what Mr. Cardone said but said that it's also very busy in the morning. Parents are dropping their kids off at YAC at 7:30 and they don't finish until 9:30, so those are two really tight times. Also, in the summer time a lot of traffic will cut through that part of town to avoid the quickway, Route 17M, through the center of town. So even though you have the light over by the ABC Learning daycare center and the light that we're talking about here, a lot of people cut through there to avoid 17M. Even with the lights it is incredibly backed up. To consider that we would have more vans and trucks coming at the same time on a Friday, with all the summer time traffic, and then for people returning to the city on Sunday night or Sunday afternoon. If the weather is bad that weekend they may head back earlier so the traffic will be all day. Last year when the bridge was out and people had to come down that way there were times when the police had to come out and direct traffic for the people who were leaving YAC. She said she has happy to see that they would be putting in a sidewalk, but she is worried for children who are walkers. What assurance is there that they can walk home from school safely. Will there be someone to assist? Will that be the responsibility of the park? There are upwards of 600 kids registered at camp so there are a lot of children. Please consider that if you're not aware of it.

Mrs. Hanson addressed the board again to ask what time the large trucks would be making their deliveries? Chairman Baum said that at this point the Board did not know because no evidence had been submitted to the Board regarding the timing of the deliveries and the trucks.

Mr. Joel Goldberger, CEO of Schlomie's, stepped forward to answer Mrs. Hansen's question. He said most of the deliveries come after 9:00 in the morning until 2:00 in the afternoon. He said there are usually not too many deliveries on Friday. Chairman Baum asked Mr. Goldberger to clarify what he meant by deliveries? Mr. Goldberger said the deliveries that are made to the store. Mrs. Hanson said that will be right in the middle of the school buses and the traffic, both in the morning and the afternoon. Mr. Goldberg said they won't be coming all at once, there could be one truck at 9:00 and one at 10:00. He said that there will be no deliveries at night at all. He said that also they have local deliveries right now. Mrs. Hanson said she's not talking about the small vans that make deliveries and run all day. She said they are no problem. She's talking about the big trucks, the tractor trailers that aren't going to be able to get under the Erie Bridge anyway.

Ms. Patrikis added that she believes that the smaller vans will be a problem, because they will be part of the increased traffic.

Member Margotta asked, regarding the sidewalks, they are only going to be in front of the building, right? Chairman Baum said that he does not know for certain but he assumes that is correct.

Chairman Baum said that as a Board they had some questions and the applicant is requesting additional time to submit additional information. Last time they came in they requested additional information and they came up with two affidavits and a conceptual plan. That took 60 days. How long should we continue with this?

Mr. Cappello said that they would be able to submit the information in time for the next meeting. Attorney Naughton said that the submission deadline for additional information for the May 8th meeting is April 27th. He also said that the additional information will focus on restricted nature versus not restrictive nature. Issues pertaining to the sidewalk and traffic light will be decided by the Planning Board. The information they submit may not address every single question raised by the Board but rather the intensity of this use versus the prior use. Chairman Baum said that he understands that.

Member Margotta suggested that they revise the conceptual plan so that it is two pages, one for each lot, and shows the traffic light.

On a motion made by Chairman Baum and seconded by Member Margotta, it was unanimously: **Resolved to adjourn the application until the May 8, 2018 agenda and that any additional information be submitted no later than April 27, 2018.**

Ayes – 5

Nays – 0

Absent/Abstaining – None

2. Michael Locke – Area Variance – 210-1-19

Present: Mr. Michael Locke

Application for a carport addition, pursuant to the Village of Monroe Zoning Law, Table of Bulk and Use Requirements. The Village Code requires a minimum side-yard setback for one side yard of 15' and total of 30' setback for both sides; the proposed left side yard setback is 8'6". The property, which is the subject of said action by the Board, is located in the SR 10 Zoning District and is identified as Section 210-1-19 on the tax map of the Village of Monroe and is also known as the address 40 Mid Oaks Street.

Secretary Doherty advised that the public hearing notices had been properly mailed and the certificates of mailing were received in a timely fashion.

Mr. Locke began by telling the Board that he lives on the outside corner of Midoaks Street and Charlotte Place. He wants to construct a carport with a setback of 8'6" where a 15' setback is required by law. He has two children and his family has four cars which

do not fit in the driveway or the garage. In the spring and the summertime they can park in the street but over winter they cannot. Mr. Locke discussed the five criteria to determine whether or not an area variance should be granted:

(1) Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of the area variance.

Mr. Locke explained that the carport will not be visible to traffic coming up from Charlotte Place. His house is to the left, basically catty-corner to the street. When you're coming down Midoaks Street it's not even visible. As far as the neighbors, the houses that are adjacent to his property, there's one house down the street and there's another house on the Town side. The houses are 50 yards or more from the property line and the carport is next to a slope. So it's not like the carport is near other houses. Mr. Locke also said that this would allow him to keep all his cars on his property all year around which would clean up the neighborhood a bit and make it look nicer.

(2) Whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance.

The way his house is designed with the layout and the garage, there is basically nothing else he can do. He cannot put a carport on the right side of the house.

(3) Whether the requested area variance is substantial.

Mr. Locke said that he does not believe the variance is substantial. The carport will run along the house 24' deep and 12' wide. There will be a nice awning that he will try to blend in with the house to make it look nice. Same color as the house, keep the lines of symmetry with the house. But it will be all open, there will be three or four posts but it will be all open. Chairman Baum asked if the side that faces the neighbor will be open? Mr. Locke said that is correct. It will be roofed, nothing else. Chairman Baum asked if the carport would just have a roof? Mr. Locke said there will be a roof and nothing else to enclose it.

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Mr. Locke said that he will not be making any grade changes or pitch water differently for the space. It's just going to be the roof with the side posts. There won't be any change to the property or directing water in another direction. Chairman Baum asked if he was going to have a concrete slab? Mr. Locke said it will be asphalt.

(5) Whether an alleged difficulty is self-created.

Mr. Locke said he wasn't sure how to interpret this. Did he do anything to create this? Or if he creates this carport does he create a difficulty somewhere else? The answer is no. It's on the side of the house, it's not detrimental to the neighborhood, traffic going by doesn't see it. The only two homes that are going to see it are the houses going down the hill 50 yards away from the property line.

Member Zuckerman asked how many cars would fit in the garage? Mr. Locke said he could fit one car in the garage and one in front of it. Member Margotta asked how many cars the carport could house? Mr. Locke said two cars could fit in the carport, one in front of the other. Member McCarthy asked if there was a deep ravine next to the carport? Member Margotta responded that there is a sloping hill next to it. Mr. Locke pointed out that because of the grade of the slope it wouldn't be feasible for his neighbor to build anything on that land. He said it actually has water runoff from a pond. Member McCarthy asked if the neighbor who owns that land lives down at the end of the road? Member Margotta said he lives in the back.

Mr. Locke said that two of his neighbors have carports. One on his street and there is also another property on Hillside Terrace that has a carport.

Member Margotta asked about the possibility of using the space beneath his deck as a parking area. Mr. Locke responded that the space is not suitable because it is not high enough and it is only about 4' deep. Also there is not enough turning radius.

Chairman Baum opened up the hearing to the public. Robert Minicucci, 42 Midoaks Street, who lives right next door to the applicant, down the hill. Chairman Baum asked Mr Minicucci to identify his house on an aerial map (found on photograph). Mr. Minicucci said for the record that he had no objection to the carport.

Nobody else in attendance at the hearing chose to speak.

On a motion made by Chairman Baum and seconded by Member Zuckerman, it was unanimously: **Resolved to close the public hearing.**

Ayes – 5

Nays – 0

Absent/Abstaining – None

Chairman Baum noted that this application was subject to review by the Orange County Department of Planning who remanded it for local determination.

On a motion made by Chairman Baum and seconded by Member McCarthy, it was unanimously: **Resolved to classify this as a Type 2 Action pursuant to SEQRA and that no further environmental review is required.**

Ayes – 5

Nays – 0

Absent/Abstaining – None

Discussion ensued by the Board. Chairman Baum felt that there would not be any negative impacts, it seems to be in character with the neighborhood, it's not going to change anything. The Board felt that the applicant met the burden on four of the five criteria with the only exception being that this was a self-created hardship. Member Margotta pointed out that the applicant searched for other alternatives, such as using the space underneath the deck, but it would not be feasible.

On a motion made by Member Martuscelli and seconded by Member Zuckerman it was unanimously: **Resolved to grant the area variance to construct the carport with a left side-yard setback of 8'6".**

Ayes – 5

Nays – 0

Absent/Abstaining – None

ADOPTION OF THE DECISION FOR HRR CORP., 236 HIGH STREET – INTERPRETATION

On a motion by Chairman Baum, seconded by Member Margotta, with all in favor, it was: **Resolved that the decision be adopted with minor changes.**

Ayes – 5

Nays – 0

Absent/Abstaining – None

APPROVAL OF MINUTES FROM FEBRUARY 13, 2018 MEETING

On a motion by Member Martuscelli, seconded by Member Zuckerman, with all in favor, it was: **Resolved that the minutes be adopted.**

Ayes – 4

Nays – 0

Absent/Abstaining – Member Margotta (Abstaining)

NEW BUSINESS: ZONING BOARD APPLICATIONS

The Board was advised that an application was received from BMG Monroe 1 LLC. The applicant has requested that the application be held in abeyance indefinitely.

On a motion by Chairman Baum, seconded by Member Margotta, with all in favor, it was:
Resolved to acknowledge receipt of the application and that the application be held in abeyance until July 10, 2018.

Ayes – 5

Nays – 0

Absent/Abstaining – None

Secretary Doherty advised the Board that they could register for the Orange County Municipal Planning Federation’s Spring 2018 Land Use and Planning Course. Members of the Board were directed to tell Secretary Doherty if they wished to take the class.

ADJOURNMENT:

On a motion by Chairman Baum, seconded by Member Margotta, with all in favor, **there being no further business, the meeting was adjourned at 9:50pm.**

Ayes – 5

Nays – 0

Absent/Abstaining – None

Respectfully submitted,



Elizabeth Doherty
ZBA Secretary