

The meeting was opened at 8:10 p.m., Wednesday, January 25, 2012.

Board Members Present: Chairman Goodfarb, Patricia Hoffman, Nancy Kaboolian, Jacob Amir, Michael Wiskind

Announcement – Next Meeting

The February meeting is scheduled for 8:00 p.m., Wednesday, February 22, 2012.

Approval of Minutes:

A motion was made by Patricia Hoffman to accept the December, 2011 minutes, seconded by Jacob Amir and passed unanimously.

Respectfully submitted,

Lorraine McSpedon

**CRETAN PROPERTIES, INC.,
609 SAW MILL RIVER ROAD,
ARDSLEY, NEW YORK
SECTION 18, SHEET 13, BLOCK 1144,
LOT 28, IN THE B-1 GENERAL BUSINESS DISTRICT
(CONTINUATION)**

For a use variance, for proposed conversion of retail/office space into two residential dwelling units on the ground floor level of the existing building (Code § 200-65B(8)).

Mr. Edward Marron, Jr. presented himself to the Board and gave a brief overview of the December hearing highlights which included a request to convert the first floor to apartments. The issues of use and hardship had also been discussed, as well as the parking issue.

There are currently five spaces on the site and the requirement for the existing use is thirteen, which leaves a current deficit of eight spaces. Assuming the use is converted to a restaurant, the use requirement would be twenty four spaces; a medical facility would require ten spaces, therefore, residential seems to be the best fit, since it will only require an additional three spaces.

Mr. Marron explained that a major deterrent for potential tenants is the fact that a parking variance is required and the fees are prohibitive and, therefore, the tenants are discouraged.

There have been two previous tenants during Mr. Bobolakis' ownership of the premises in question. They have both attempted to obtain approval by the Board. The first encountered legal problems and, consequently, the property was placed back on the market in short order. The second, a doggie day care facility, was denied approval. The lack of tenancy has proven to be a hardship for Mr. Bobolakis.

There are eleven other rentals in town similar to Mr. Bobolakis' property either have the necessary variances or have the required parking or have public parking.

Mr. Marron exhibited the real estate listing history of the property. In addition to attempting to rent the property, Mr. Bobolakis had attempted to sell the property on two separate occasions.

Mr. Marron explained that the property in question is not part of the main business district in the Village and is void of sidewalks. The consumers which would frequent the business will be solely interested in the businesses housed in the property. While additional parking does exist behind the property, on Fuller, the rear of the property is located in an R-3, residential district which restricts access for use by businesses under Village Code. Mr. Marron stated he felt that this was a unique restriction.

Mr. Marron reviewed the number of days the property has been on the market and noted that this property is significantly above the Ardsley commercial district average. Mr. Marron again mentioned that the competition from comparable properties in the Village is making it difficult to find a tenant.

Mr. Marron stated that due to the number of issues with the property, he felt that it was a unique situation which was restricting viable tenants from pursuing occupancy.

Mr. Marron stated that a residential usage would relieve the area of congestion since the trips per day would be less than a commercial usage would be.

Mr. Amir requested Mr. Marron identify the existing adjacent properties.

Ms. Hoffman questioned several entries on the rental time line.

Ms. Hoffman stated that all prospective tenants to the Village, with the exception of the mall locations, are aware that a parking variance will be necessary. Mr. Marron responded that the combination of restrictions on this particular property is what makes it unique.

Ms. Hoffman explained that a use variance requirement is that financial hardship be shown, however, Mr. Bobolakis purchased the property in 2008 and it would appear that even if the property were fully rented, a loss would have been realized. Mr. Marron agreed that a loss was inevitable, however, the extent of the loss is huge compared to what it could have been had the property been rented.

Ms. Hoffman stated that give the above, it would appear that the hardship was self-created. Mr. Bobolakis stated that upon the purchase of the property, the market dropped and the value of the property decreased significantly. Had the market remained stable, a profit would have been realized.

Ms. Kaboolian questioned the tax ramifications for a potential change of use from commercial to residential. Ms. Hoffman explained that a loss in revenue may be realized by the Village for a use change variance. Mr. Marron explained that the tax rate will be raised due to construction costs.

Mr. Marron explained that the proposed square footage for the two downstairs apartments will be 880 and 920 sq. ft.

Mr. Wiskind questioned if an advance variance could be given for an office use in order to encourage potential tenants to lease the space. Ms. Hoffman did not think that would be possible.

Ms. Kaboolian questioned the down side of granting residential use. Ms. Hoffman explained that none of the nearby existing residential properties have tenants on the first floor facing Route 9A; they have access from Fuller Street. Ms. Hoffman also expressed concern regarding the proximity to the thruway as far as safety for children was concerned. Additionally, the concern over setting a precedent was discussed.

Ms. Kaboolian stated that there are multi-use properties in the area.

Mr. Marron argued that there is no access to the downtown area from this property and the parking issue is a problem.

Chairman Goodfarb encouraged the applicant to withdraw the application rather than be turned down.

Ms. Hoffman confirmed with Mr. Marron that the cost of construction for the two apartments would be approximately \$20,000.

Ms. Hoffman expressed her concern that the hardship of this property was self-created and will not necessarily be remedied by a change of use. Ms. Hoffman explained that a standard must be met in order to grant a change of use and the hardship will not be eliminated by granting the change of use. Mr. Marron explained that the situation will be substantially better if the change of use is granted.

Ms. Hoffman expressed her pleasure with Mr. Bobolakis' cooperation with the Village.

Mr. Amir expressed his concern regarding the potential precedent which may be set as well as whether the legal standard is being met for granting a variance.

Mr. Wiskind stated he is not comfortable with the property being converted to a residential use and would like to make it easier to rent as a commercial space by allowing some degree of assurance that a parking variance will be granted.

Ms. Kaboolian stated that she was conflicted since it may be more beneficial to have the property rented regardless of its use.

Chairman Goodfarb expressed his confusion.

The public participation was closed.

Ms. Hoffman was not sure that the legality of the use variance was being met and it was agreed that Mr. Amir would consult with Attorney Ponzini to clarify this issue.

Ms. Hoffman suggested adjourning the application until next month and that advice be sought from Mr. Tomasso and Attorney Ponzini.

The Session concluded at 9:20 p.m.

**ARDSLEY MALL INC.
(BY ARDSLEY RESTAURANT GROUP INC.),
925 SAW MILL RIVER RD,
ARDSLEY, NEW YORK
SEC. 16, SH.1, BLOCK 0000/0, LOT P13K
(901-935 SAW MILL RIVER RD),
IN B-3 SHOPPING CENTER BUSINESS DISTRICT.**

For a use variance to permit live entertainment at Pumpernickel Restaurant (§ 200-80.1A) (*Continuation*).

A motion was made by Ms. Hoffman to adjourn the hearing, seconded by Mr. Wiskind and passed unanimously.