

**MINUTES
VILLAGE of ARDSLEY
ZONING BOARD of APPEALS
REGULAR MEETING
WEDNESDAY, OCTOBER 28, 2015**

PRESENT: Patricia Hoffman, Chair
Jacob Amir
Mort David
Michael Wiskind

1) Call to Order

The Chair called the regular meeting to order at 8:00 pm.

2) Announcements

The Chair announced that the next meeting of the Zoning Board of Appeals will be on Wednesday, November 25, 2015 at 8:00 pm.

The Chair stated that the agenda will be taken out of order.

**3) Public Hearing
Application for Renewal of a Special Use Permit**

**Ni Nu Inc., d/b/a Bucci's Irvington Auto Body,
646 Saw Mill River Road, Ardsley, New York
Section 6.70, Block 42, Lots 3 and 5, in the B-2 Business District
For renewal of a special use permit, to continue operation
of an auto body repair shop (§ 200-74B)**

Present: Patricia Hoffman, Chair, Jacob Amir, Mort David, Michael Wiskind

Attendee: Anna Bucci, 646 Saw Mill River Rd. Ardsley New York

The Chair read the legal notice into the record.

Open Public Hearing

Ms. Bucci produced thirteen green cards received in response to the fifteen pieces mailed.

The Chair announced that this is an application for a special use permit that is required to be renewed every two years. The Chair noted that the packet of materials provided had not contained a copy of the insurance certificate, which Mrs. Bucci provided at the hearing. The Chair took notice that the insurance certificate has an effective date of October 26, 2015 to October 26, 2016.

The Chair asked if there had been any violations during the past two years. Mrs. Bucci replied no.

The Chair asked if anyone wished to be heard in favor of or in opposition to the application. There being none,

Mr. David moved, and Mr. Amir seconded, that the Public Hearing be closed. **Vote:** 4 in favor, none opposed, and none abstaining.

Close Public Hearing

Mr. Amir proposed the following Resolution:

WHEREAS, Ni Nu Inc., d/b/a Bucci Irvington Auto Body, 646 Saw Mill River Road, Ardsley, New York, has applied to this Board for a renewal of a special use permit to continue to operate an auto body repair shop at the premises known as and located at 646 Saw Mill River Road, Ardsley, New York, a variance from the requirements of Section 200-74, Subdivision B of the Zoning Ordinance of the Village of Ardsley; and

WHEREAS, this application is made under the authority of Section 200-97 Subdivision B of the Zoning Ordinance of the Village of Ardsley, affecting premises known as 646 Saw Mill River Road, Ardsley, New York, and designated as Section 6.70, Block 42, Lots 3 and 5 in the B-2 Business District on the tax maps of the Village of Ardsley; and

WHEREAS, a public hearing on this application was held by the Ardsley Zoning Board of Appeals at the Municipal Building, 507 Ashford Avenue, Ardsley, New York on October 28, 2015, after due notice by publication; and

WHEREAS, at the hearing, Anna Bucci appeared in support of the application, and no one appeared in opposition to the application; and

WHEREAS, this Board after carefully considering all testimony and the application finds the following:

- (1) that all requirements for continuing the special use permit have been met;
- (2) that applicant provided a Certificate of Liability Insurance for the premises with an effective date of October 26, 2015 through October 26, 2016; and
- (3) that there are no current violations, as represented by Anna Bucci;

NOW THEREFORE, be it RESOLVED that the Zoning Board of Appeals grants the application for renewal of the special use permit to operate an auto body repair shop for an additional twenty-four months until October 2017, on the same terms and conditions set forth by the Board after public hearing on June 26, 1996, and continued on July 24, 1996, and renewed annually thereafter, and now being renewed biannually.

Mr. Amir moved, and Mr. David seconded, that the above resolution be adopted. **Vote:** 3 in favor, none opposed, 1 abstaining.

Mr. David reminded Ms. Bucci that next year at this time, she will need to provide the Certificate of Insurance to the Village of Ardsley, and not to the Ardsley Zoning Board of Appeals.

4) Public Hearing

Application for a Variance from Rear Yard Deck Requirements

**Linda Appelbaum, 57 Bramblebrook Road, Ardsley, New York
Section 6.80, Block 68, Lot 48, in an R-3 Residential District
For a deck with a proposed rear yard setback of 16 feet, where the minimum
required is twenty feet (§200-26C).**

Present: Patricia L. Hoffman, Chair, Jacob Amir, Mort David, Michael Wiskind

Attendee: Linda Appelbaum, 57 Bramblebrook Road, Ardsley, New York

The Chair read the legal notice into the record.

Open Public Hearing

Ms. Appelbaum produced twelve green cards received in response to the twenty-one pieces mailed.

Ms. Appelbaum also produced supplemental material in support of her application. One document was a survey done on applicant's behalf on June 8, 1989, prior to purchasing the property on June 27, 1989, showing the deck already there. The second illustration shows the current deck of treated wood that applicant erected in place of, and on the same footprint as, the original deck which was rotten. The third document is an illustration of the replacement deck, showing it to be 265 square feet, of which 16.6 percent is four feet closer to the property line than setback requirements allow.

The Chair took notice of a 1966 Certificate of Occupancy that covered the deck, and a 1989 Certificate of Occupancy, the latter not based on an inspection nor on anything other than a reissuance of the 1966 Certificate.

Mr. David asked the applicant if the land above her property is a slope, with nothing behind your property, and Ms. Appelbaum indicated her agreement.

Mr. Wiskind asked the approximate elevation of deck. Ms. Appelbaum suggested that it might be four feet above ground, as it is level with the kitchen. Mr. Wiskind noted that the photograph of the deck shows that there are only four steps on the deck, so surmises that the deck must have an elevation of not much more than 32 inches.

The Chair asked why the applicant is seeking a variance at this time. Ms. Appelbaum replied that she is selling the house.

Mr. David reminded the applicant that even if the Zoning Board of Appeals were to grant a variance, this would not obviate the need for the Building Inspector to inspect the deck for conformance with the current code.

Mr. David asked if applicant's neighbors have decks, and Ms. Appelbaum replied that her neighbors on either side have decks in the back.

The Chair asked if anyone wished to speak in support of or in opposition to the application.

There being none, Mr. Wiskind moved, and Mr. David seconded, that the Public Hearing be closed. **Vote:** Four in favor, none opposed, none abstaining.

Close Public Hearing

Mr. David proposed the following Resolution:

WHEREAS, Linda Appelbaum, 57 Bramblebrook Road, Ardsley, New York, has applied to this Board for a variance from the requirements of Section 200-26, Subdivision C, of the Zoning Ordinance of the Village of Ardsley for intrusion of a deck into the rear set back of the property; and

WHEREAS, this application is made under the authority of Section 200-97 Subdivision B of the Zoning Ordinance of the Village of Ardsley, affecting premises known as 57 Bramblebrook Road, Ardsley, New York, and designated as Section 6.50, Block 68, Lot 48 in an R-3 single-family residence district on the tax maps of the Village of Ardsley; and

WHEREAS, a public hearing on this application was held by the Ardsley Zoning Board of Appeals at the Municipal Building, 507 Ashford Avenue, Ardsley, New York on October 28, 2015 after due notice by publication; and

WHEREAS, at the hearing, Linda Appelbaum appeared in support of the application and no one appeared in opposition; and

WHEREAS, this Board, after carefully considering all testimony and the application, finds the following:

- (1) the applicant seeks a variance to legalize a deck that existed when applicant purchased her home in 1989;
- (2) the deck protrudes four feet into the twenty foot setback;
- (3) neighboring properties have decks, according to Linda Appelbaum; and

WHEREAS, this Board, in weighing both the potential benefit to the applicant and the potential detriment to the health, safety and welfare of the neighborhood if the variance is granted, has determined that:

- (1) as the deck has existed for fifty years, neither an undesirable change in the character of the neighborhood nor a detriment to nearby properties will be created by the granting of the area variance;
- (2) the benefit sought by the applicant cannot be achieved other than by an area variance;
- (3) the requested area variance is not substantial;
- (4) the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (5) the circumstance requiring the area variance was not self-created;

NOW THEREFORE, be it RESOLVED that the application of Linda Appelbaum is granted.

Mr. David moved, and Mr. Wiskind seconded, that the Zoning Board of Appeals adopt the above resolution. **Vote:** 4 in favor, none opposed, none abstaining.

5) **Public Hearing**

Application for Variances from Village Code Sign Requirements (adjourned from September 30, 2015)

15-35 Center Street, LLC (by Primizia Foods, LLC, d/b/a DeCicco & Sons)

21-23 Center Street, Ardsley, New York.

Section 6.50, Block 30, Lot 1, in the B-1 General Business District.

For proposed new illuminated business identification wall sign, exceeding maximum permitted overall; (a) vertical dimensions (§ 200-82C(2)(a)[2][a][iii]; and height of letter groups (§ 200-82C(2)(a)[2][b]).

Present: Patricia L. Hoffman, Chair, Jacob Amir, Mort David, Michael Wiskind

Attendee: Frankie Cintron of Hudson Valley Sign Company,
representing Mike Puma of DeCicco & Sons

The Chair read the legal notice into the record, noting that this matter had been adjourned from the September 30, 2015 meeting.

Open Public Hearing

Mr. Cintron produced thirty green cards received in response to thirty pieces mailed, and he submitted an Affidavit of Mailing.

Mr. Cintron provided illustrations of the existing sign and of the proposed sign to show that they both had the same type of lettering but with a slightly different font, and to show that overall the proposed sign is a little smaller than the existing sign, and will be able to fit inside the arch in the exterior wall of the building. Mr. Amir asked to view the illustrations side by side.

Mr. David asked if the niche in the wall would have to be cut. Mr. Cintron explained that these signs are affixed to the wall with pins, and that the holes from the pins holding the existing sign will be filled to match with the façade décor. Mr. Wiskind asked if the proposed sign will now fit within the arch shaped niche.

Mr. Cintron mentioned that the proposed sign will be lit in the same way as the existing sign is lit.

The Chair asked about the overall dimensions of the old sign. Mr. Cintron informed the Board that he had not taken measurements of the old sign, but that the proposed sign is 49" vertical with two lines of letters within that vertical dimension, and 96" wide. Mr. Wiskind suggested that the photographs of the proposed and existing signs are in the same ratio, and that overlaying the two photographs, one can see that the proposed sign is indeed smaller, as

it fits within the arched niche, whereas the existing sign straddles and extends beyond the niche. The Chair noted that the width of the proposed sign is smaller, and Mr. Wiskind suggested that the existing sign might be as wide as 140 inches.

Mr. David noted that the letters on the proposed sign are a lot larger, and Mr. Wiskind added that the letters are now on two lines. The Chair noted that the proposed sign has a logo of a grocery bag, which the existing sign does not have, and Mr. Wiskind pointed out that the existing sign has a swish, which the proposed sign does not have.

Mr. Wiskind remarked that the existing sign was a very large sign for the amount of wall space it occupied, and that the proposed sign looks better for the space.

The Chair asked if there was anyone present wishing to speak in support of the application.

Ms. Danielle Thomas, an employee of DeCicco's, spoke in support. She explained that one of the reasons for the sign change is because of a change of name, and the supermarket is taking a brand name approach to the business. The sign is therefore needed to distinguish it from other existing DeCicco's supermarkets.

Mr. Wiskind noted that there is other signage with the name, for example near the Starbuck's, and asked if DeCicco & Sons is dealing with the Board of Architectural Review regarding changing those signs as well. Ms. Thomas reported that DeCicco & Sons will be dealing with the Board of Architectural Review after the Zoning Board of Appeals rules on this variance application.

Mr. Amir moved, and Mr. Wiskind seconded, that the Public Hearing be closed. **Vote:** Four in favor, none opposed, none abstaining.

Close Public Hearing

Mr. Wiskind proposed the following Resolution:

WHEREAS, Primizia Foods, LLC, d/b/a DeCicco & Sons, 21-23 Center Street, Ardsley, New York, has applied to this Board for a variance from the requirements of Section 200-82, Subdivision C(2)(a)[2][a][iii] and of Section 200-82, Subdivision C(2)(a)[2][b], of the Zoning Ordinance of the Village of Ardsley for permission to replace an existing illuminated exterior wall sign with a proposed new illuminated exterior wall sign, said proposed new sign having a vertical measurement of lettering height of 4 feet 2 inches, exceeding maximum permitted measurements of 2 feet for the overall vertical measurement and 1 foot for the height of letter groups; and

WHEREAS, this application is made under the authority of Section 200-97 Subdivision B of the Zoning Ordinance of the Village of Ardsley, affecting premises known as 21-23 Center Street, Ardsley, New York, and designated as Section 6.50, Block 30, Lot 1 in the B-1 General Business District on the tax maps of the Village of Ardsley; and

WHEREAS, a public hearing on this application was scheduled to be held by the Ardsley Zoning Board of Appeals at the Municipal Building, 507 Ashford Avenue, Ardsley, New York on September 30, 2015 after due notice by publication, and was adjourned to and held on October 28, 2015; and

WHEREAS, at the hearing, Frankie Cintron of Hudson Valley Sign Co. appeared in support of the application, and Danielle Thomas of DeCicco's appeared in support of the application, and no one appeared in opposition; and

WHEREAS, this Board, after carefully considering all testimony and the application, finds the following:

- (1) the proposed sign is smaller in both width and height than the existing sign;
- (2) the proposed sign is of similar construction in terms of materials, and will be illuminated as is the existing sign;
- (3) the reduction in the overall size of the sign is a positive direction, and the change in lettering is not a significant change; and

WHEREAS, this Board, in weighing both the potential benefit to the applicant and the potential detriment to the health, safety and welfare of the neighborhood if the variance is granted, has determined that:

- (1) the overall size of the proposed sign is smaller than the existing sign, so neither an undesirable change in the character of the neighborhood nor a detriment to nearby properties will be created by the granting of the variance;
- (2) the proposed sign reflects a change of the name of the business, and therefore is desirable in the interest of accuracy;
- (3) the requested variance is not substantial;
- (4) the proposed sign is not a significant change from the existing sign, so the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (5) the circumstance requiring the area variance was not self-created in the sense that it is reflecting the change of the name of the business;

NOW THEREFORE, be it RESOLVED that the application of 15-35 Center Street LLC is granted.

Mr. Wiskind moved, and Mr. David seconded, that the above Resolution be adopted by the Zoning Board of Appeals. **Vote:** 4 in favor, none opposed, none abstaining.

6) **Public Hearing**

Application for a Variance to Extend an Existing Non-Conforming Use

**Cross Town Motor Inn d/b/a Apple Motor Inn a/k/a Apple Motel,
775 Saw Mill River Road, Ardsley, New York.**

Section 6.50, Block 19, Lot 2, in the B-1 General Business District.

For a proposed second story motel addition, extending an existing non-conforming use. (§ 200-100C)

Present: Patricia Hoffman, Chair, Michael Wiskind, Jacob Amir, Mort David.

Attendee: Joseph Ricciuti, of Lawless & Mangione, Architects & Engineers, LLP,
480 North Broadway, Yonkers, New York,
on behalf of Cross Town Motor Inn

The Chair read the legal notice into the record, noting that this matter had been adjourned from the meeting of September 30, 2015.

Open Public Hearing

Mr. Ricciuti produced 22 green cards received in response to 26 pieces mailed.

Mr. Ricciuti reported that the proposed extension of the non-conforming use would be a second story addition to the motel, which addition would have ten motel rooms, which would bring the number of motel rooms from 49 to 59.

Mr. Ricciuti stated that the owner of the Apple Motel also owned the Tuckahoe Motor Inn until it was bought by Federal Express approximately six months ago, and that the owner reports that since the Tuckahoe Motor Inn closed, there is a lot more demand at the Apple Motel.

Mr. Ricciuti reviewed the site plan with the Zoning Board of Appeals. He pointed out that there are three wings of the motel, and that there already is a second floor on the middle wing; that the proposed addition would be right by the second wing on the Northern end of the building; that the proposed addition would be on top of the existing first floor, so as not

to exceed any square footage on the lot; and that this addition would contain the ten additional motel rooms.

Mr. Ricciuti reported having been informed that this would require handicapped units. As there is no elevator to the second floor, the plan includes remodeling four units on the first floor, underneath the proposed addition. Mr. Wiskind inquired if the remodeling would change the number of units on the first floor. Mr. Ricciuti explained that there will be no change to the number of rooms, that the remodeling is limited to making the existing bathrooms in those rooms larger for wheelchair accessibility with rolling showers and grab bars. Mr. Ricciuti mentioned that the handicapped accessibility has been discussed with Mr. Tomasso. Mr. Wiskind asked if the existing rooms would get a little smaller, and Mr. Ricciuti confirmed this.

Mr. Wiskind asked if Mr. Ricciuti if he had a view of the proposed addition from Heatherdell Road, as he is concerned about sightlines from the houses there. Mr. Ricciuti replied that he could obtain a photograph if desired, but that he suspects it will not interfere with anything because the existing second story is set back further, toward the property line in front, and the proposed addition might not impede view of anything except perhaps for some of the road.

Mr. Ricciuti noted that the elevation of the proposed addition would match, and that he had been advised by Mr. Tomasso that he would need to come back afterward for signage.

The Chair asked if any of the ten units have kitchens or any cooking facilities. Mr. Ricciuti replied that none of the existing units have any cooking facilities, and that none of the additional proposed units do either.

The Chair asked about the occupancy of those rooms. Mr. Ricciuti reported that the rooms have king, double or single beds, and that he believes that cots can be rolled in. Mr. Wiskind asked if the proposed additional rooms are the same size as the existing rooms. Mr. Ricciuti replied that they are the same size, though some vary slightly.

The Chair asked how the applicant plans to address the additional parking requirements. Mr. Ricciuti reported that currently there are 41 spaces serving 49 units, and that they plan to add two more parking spaces, which would yield 43 parking spaces for 59 motel rooms. Mr. Ricciuti calculated that this translates to going from 0.83 parking spots per unit now to 0.72 parking spaces per unit after the proposed addition. Mr. Ricciuti notes that management states that motel guests come to the motel by bus and taxi as well as by car. He also stated that the applicant is willing to provide valet parking, should the Board of Zoning Appeals wish. Mr. Ricciuti explained that eight additional parking spaces could be added in the back of the motel, and that a valet could park the cars behind each other. Mr. Ricciuti asked what the Village Code required for parking spaces, and the Chair advised that there presently is no parking requirement in the Code, but notes that the Village is notorious for lack of parking. Mr. Wiskind noted that the road widening does not go down as far as the motel.

Mr. David sought assurance that Mr. Ricciuti understood that the motel's use does not conform to village code and that it may not be expanded without a variance, and then inquired if the proposed expansion is desired for additional profit. The Chair added that a use variance requires a stringent review of financial requirements. Mr. Ricciuti stated that the motel has seen demand increase and does not want to turn people away. Mr. Wiskind pointed out that the test is whether the business is unprofitable or insufficiently profitable without this.

The Chair explained that therefore the Board of Zoning Appeals will need to see the motel's "fill rate" – how often they are full, whether they're 75% full, 90% full, or turning people away. Mr. Ricciuti reported that motel management has informed him that on Sundays through Thursdays, the motel is 80% occupied, and that on Fridays and Saturdays, the motel is 100% occupied and turning people away. Mr. Amir asked if these were current figures. Mr. Ricciuti stated that these have been the occupancy rates since the Tuckahoe Motor Inn closed, approximately four months ago. The Chair asked if the increase is coming from Tuckahoe. Mr. Ricciuti advised that the motel did not have 100% weekend occupancy prior to that. Mr. Amir pointed out that the applicant must have records that would show different figures from earlier than four months ago. Mr. Wiskind added that the Zoning Board of Appeals needs monthly records going back at least a year, which would include room nights and range of rates. Mr. Wiskind reminded Mr. Ricciuti that the basic test is that the property cannot achieve a reasonable financial return without change, and specifically pointed out that the test applies to the property, not the business thereon. Mr. Ricciuti stated that he will return with management, who can provide the financial information sought by the Board.

The Chair summarized the financial information the Zoning Board of Appeals requires for its consideration of the application:

- Profit and Loss Statement from January 2014 to date;
- Expenses;
- Tax returns for 2013 and 2014;
- Names of owners, partners, or shareholders, according to the business structure.

The Chair asked if anyone wished to speak in support of or in opposition to the application.

Mr. Petros Anemodouras, of 15 Heatherdell Road, Ardsley, New York, spoke in opposition to the application. Mr. Anemodouras stated that he lives directly above the motel, and that its spotlights for security hit his house. He also stated that the alarms from motel customers' vehicles wake him and his family up at night, and that police come in response to false alarms.

Mr. Anemodouras also stated that there is no tree line (between the motel and Heatherdell Road, which makes it look like they live in the backyard of the motel). He also stated that

there is no fence between the motel and the road, which he believes to be dangerous for cars driving on Heatherdell when it is icy.

Mr. Anemodouras feels that Ardsley is not a place for more motel rooms, and he feels that there is enough trouble from the motel now, and he supposes that more motel rooms will result in more problems.

The Chair asked Mr. Anemodouras when he bought his home. Mr. Anemodouras replied that he bought his home in 1979, there was a motel with a different name, which was less busy as the motel is now. He believes that the additional business is from steady customers from the other motel property that they now want to accommodate here. Mr. Anemodouras said that he has growing grandchildren and that does not want so large a motel crowd in the neighborhood.

Mr. Nicholas Anemodouras (son of Mr. Petros Anemodouras), also of 15 Heatherdell Road, Ardsley, New York, also spoke in opposition to the applicant. Mr. Nicholas Anemodouras stated that the motel customers stay for short stays of only a few hours, that it has an element of “riff-raff” that could be criminal, as the police do visit the motel often, and that his family does hear alarms going off. He stated that his family is concerned that ten more rooms present the potential for increased criminal activity. He added that the concerns have always been with the clientele, and not the motel itself.

Mr. Nicholas Anemodouras also stated that something is needed to hide the appearance of the motel. The pine trees that the motel planted were shorter than the fence, which is a chain link fence. He suggested that a solid, earth-tone colored fence would both improve the appearance and reduce the high noise level that comes from Route 9(A), which he believes would benefit the Village of Ardsley overall. He concluded that ten more motel units is against Ardsley’s interest.

Mr. Ken Lalli, of 22 Powderhorn Road, Ardsley, New York, also spoke in opposition to the application.

Mr. Lalli stated that his home is at the top of Heatherdell Road, at the corner of Powderhorn Road, that there is no one behind his property, so there is a direct sightline from his home to the motel even when the trees are full. Mr. Lalli stated that he can see the cars going in and out, can even read the cars’ license plates, and hears all the alarms. He also noted that a car did go off Heatherdell Road into the motel property and had to be pulled out.

Mr. Lalli echoed all the sentiments expressed by Messrs. Anemodouras as to the “elements” coming in and out of the motel. He stated that although the motel was already there when he bought his home, he does not agree to its expansion, because the more you add to this, the more you bring down property value. Mr. Lalli stated that he pays a lot of money on taxes, and he does not want his property value to go down and the quality of life to decrease.

After hearing from the public, the Board of Zoning Appeals advised Mr. Ricciuti to provide additional information prior to the next meeting:

- Average length of stay;
- Where do the customers come from (i.e., are they relatives of people from Ardsley?)
- Motel records of license plates;
- Any changes in how the motel has marketed itself;
- Date the Tuckahoe Motor Inn closed; and
- Number of police, fire and ambulance calls from Jan 2014 through September 2015.

Mr. Wiskind moved, and Mr. Amir seconded, to adjourn the matter to November 25, 2015.

Vote: Four in favor, none opposed, none abstaining.

The Chair asked Mr. Ricciuti to provide all of the material requested by November 15, so that the Board would have time to review it prior to the November 25th meeting. Mr. Ricciuti agreed to do so, and stated that he would bring motel management with him to that meeting.

7) **Approval of Minutes**

Mr. Wiskind moved, and Mr. David seconded, that the Zoning Board of Appeals approve the Minutes of its meeting of September 30, 2015. **Vote:** Four in favor, none opposed, none abstaining.

8) **Adjournment**

There being no other business before the Zoning Board of Appeals, on motion of the Chair, seconded by Mr. David, which motion passed unanimously, the meeting was adjourned.

Respectfully submitted,

Judith Calder
Recording Secretary