

**VILLAGE OF MONROE**  
**ZONING BOARD OF APPEALS**  
**PUBLIC HEARING**  
**May 10, 2022**  
**Via Zoom**

**PRESENT:** Chairman Baum, Members Gilstrap, Zuckerman, Alternate Member Doherty, Board Attorney Naughton, Assistant Building Inspector Proulx

**Absent:** Members Margotta and Czerwinski

Chairman Baum called the meeting to order at 8:00 pm with the Pledge of Allegiance.

Chairman Baum gave Alternate Member Doherty voting rights for the matters before the Board at this meeting.

Chairman Baum read the legal notice for 17 McElroy Place. Chairman Baum asked the applicant to speak about what relief was being sought.

Ms. Gwenn Moore, the applicant, stated she has rescue pigeons. These pigeons cannot forage for themselves in the wild so she built an aviary. She did not get permits when building this structure and she is before the Board to get variances for the setbacks for this structure. She stated that the Village Code states “fowl” with no distinction for pigeons. Pigeons are not considered fowl by the US Government, because they are not used as food. Ms. Moore stated most of her neighbors do not have problems with the pigeons as they do not make noise and they do not free fly. She stated she is seeking the variances so she can keep her birds.

Chairman Baum asked when Ms. Moore started getting rescue birds. Ms. Moore stated she got her first bird in 2017 and shortly after that she joined a pigeon rescue association. Most of the birds came from her association with the rescue association. Chairman Baum asked when the aviary was built. Ms. Moore stated summer of 2017, July or August. Chairman Baum asked if the aviary was built after she got her first rescue. Ms. Moore stated yes, there were two birds together that were her first birds.

Chairman Baum asked where on the property is the aviary located. He stated there was no sketch or layout of the property with the location of where the aviary is located. Ms. Moore stated she had submitted pictures. Chairman Baum stated yes, the Board had the pictures but it was hard to determine where the aviary is and how close it is to the home and the lot lines. Member Zuckerman stated the Board Secretary had requested a plot plan on January 13, 2022 but had not received one. The only plot plan that could be found was from the Building Department and it is dated 1967 so there is no up to date survey or plot plan. In 1967 there was a variance granted for a deck but that is the last plot plan for the property. Chairman Baum asked if Ms. Moore is able to provide a plot plan. Ms. Moore stated she wasn't sure what that was. Chairman Baum explained what a plot plan is and that it would contain information about how far a structure is from the lot lines on the side, back and front and would provide information about the size of the structure. Ms. Moore stated the aviary structure is about eight feet by fourteen feet. Member Zuckerman stated that as this is an accessory structure it needs to be ten feet from the lot lines as well as ten feet from the house. The placement of the structure is important because if we grant the variance a plot plan will need to be submitted to the Building Department anyway. Chairman Baum asked Assistant Building Inspector Proulx if there was a plot plan submitted for the Land Use Determination letter.

Assistant Building Inspector Proulx stated no because the structure is less than two hundred feet from the adjoining structures so they didn't need to ask for the plot plan. Assistant Building Inspector Proulx stated the aviary is less than two hundred feet from all the adjoining structures.

Chairman Baum asked if there was anything else the application would like to add. Ms. Moore stated she had submitted letters from her neighbors in support of the application. Ms. Moore stated that the two neighbors directly behind her have no problems with the aviary as they have fences and cannot see the aviary. The structure is ten feet from the side lot line but it is not ten feet from the rear lot line. Chairman Baum stated the Board did receive three letters from the public. Chairman Baum read the letters into the record.

The first letter is dated March 31, 2022 from 25 McElroy Place:

*To Whom it may concern:*

*I have been a property owner of 25 McElroy Place since 1979. This letter is written in support of a variance request submitted by Gwen Moore and Steven Lootz, for their property at 17 McElroy Place.*

*The aviary does not pose a problem in this area and does not diminish the property values.*

*How can anyone object to a humanitarian venture such as this in our current time?*

*I truly hope they will be permitted to continue caring for these unfortunate birds that have been injured and abandoned.*

*Stella Kaisted  
25 McElroy Place  
Monroe, NY 10950  
(XXX) XXX-XX44*

The second letter is undated from and is 11 McElroy Place.

*To Whom It May Concern,*

*It has come to my attention that Moore/Lootz are seeking a variance to house a Avery on the property of 17 McElroy Place in Monroe Village. I have been a resident at 11 McElroy Pl. for the past 21 years and this letter is written to support their request.*

*The birds are not a problem to any of us in this area. The Avery is well built and maintained and does not pose a hindrance. Their act of rescuing injured birds and housing these creatures should serve as an example of kindness badly needed in our current age.*

*Thank you,*

*Carol Dolan*

*11 McElroy Place*

*Monroe, NY 10950*

*(XXX) XXX-XX38*

A letter was received from the Palomacy Pigeon and Dove Adoptions Volunteer at Avian Underdogs Rescue Association which Ms. Moore a moderator for the New York area.

Member Doherty read the third letter that was undated:

*To whom it may concern:*

*I am writing to you as a friend and colleague of Gwenn Moore. I have known Gwenn for the last 5 years and have worked with her daily as a fellow moderator for the Palomacy Pigeon and Dove Help Group. Gwenn is an experienced and excellent pigeon caregiver and her aviary is top notch. The rescued birds she has given a home to are lucky indeed.*

*The Palomacy Help Group is the world's premiere resource for those who rescue pigeons and doves, and as moderators we have the added benefit of consulting privately with experienced vets and rehabbers, including those at the Medical Center for Birds — a veterinary hospital famous for their work with pigeons. Moderators are experts on all things pigeon and dove, and we spend a lot of time addressing questions and concerns about predator proof aviaries, safe and healthy feeding, cleanliness, keeping our birds safe from transmitted diseases with preventative medicine and biosecurity, bird save aviary cleaners, bathing options, and all the best practices that come with property caring for pigeons.*

*Gwenn is a calm and friendly moderator, always looking out for the best interest of the birds while gently instructing new members on ways to improve. There is no one I would rather have take my pigeons — who are as much a part of my family as a dog, cat or child — and I could easily trust that Gwenn would give them the best life. There is also no one I would rather have as a neighbor, even if I wasn't a bird person. Gwenn is extremely conscientious, safe and educated about all things bird related, and she goes to great lengths to make sure her flock is healthy and happy.*

*Pigeons in particular are extremely misunderstood animals. They are not the dirty, disease carrying pests that most people think they are. They are intelligent, emotional, cleanly birds who have not only figured out how to live alongside humans, they have helped humans in everything from war to identifying malignant tumors in ill patients. Healthy, well cared for birds pose less threat to the human population than dogs or cats. Plus they don't bite.*

*As someone who knows Gwenn personally, I am here to vouch for her experience and ability with her birds — to keep them safe, healthy and happy — and to provide them with the loving home they deserve.*

*Best regards,*

*Jenna Close*

*Palomacy Pigeon and Dove Help Group Moderator Volunteer at Palomacy Pigeon and Dove Adoptions  
Volunteer at Avian Underdogs Rescue Association*

Chairman Baum stated this application does not require a GML review.

Chairman Baum asked the Board if they had any questions or concerns. Member Zuckerman asked how long Ms. Moore had roosters and if they are still there. Ms. Moore stated she found two little chicks across the street and someone told her they were chickens, and the day someone from the Building Department came she got rid of them immediately. Ms. Moore stated she had them a couple of months.

Member Zuckerman asked if pigeons were the only other fowl Ms. Moore had. Ms. Moore stated yes, the pigeons are the only birds she has now. She apologized for the roosters and stated they were a mistake and she got rid of them the same day it was brought to her attention.

Alternate Member Doherty asked if any of the letters were from her immediate neighbors. Ms. Moore stated yes, one is from a next-door neighbor and one is from two houses down. Alternate Member Doherty asked if Ms. Moore had an idea how far she was from the property line on the side and the back of her property. Ms. Moore estimated the structure is eighteen to twenty feet from the side lot line and in the back, there is not ten feet but the neighbors have fences so it is not an issue; she stated it is probably five or six feet from the rear lot line. Alternate Member Doherty asked if the aviary was set back from the house. Ms. Moore stated it was far from the house and that her rear yard was two levels and the aviary is on the second level.

Alternate Member Doherty asked how many pigeons there were now. Ms. Moore stated there were thirty to thirty-five pigeons at this time. Board Attorney Naughton asked how many pigeons Ms. Moore was planning to have in total. Ms. Moore stated she is done, she is full at thirty-five. Ms. Moore stated that it is part of doing rescue knowing when to say no and she is turning down birds. That in order to keep them safe and healthy they cannot be over crowded.

Alternate Member Doherty asked if pigeons make any noises. Ms. Moore stated yes, they coo. They are not as loud as a Morning Dove. Pigeons mate for life and Ms. Moore she swaps the real eggs with fake eggs so it will keep the pigeons' population stable. Chairman Baum asked what is the average age of pigeons. Ms. Moore stated she has had pigeons live into their twenties and she has some fancy birds which the average live span is ten to fifteen years.

Member Gilstrap inquired that when Ms. Moore stated she turned away birds and he wanted to know what became of those birds and are there other people in the area that can host those birds. Ms. Moore stated she was the only one in the area that hosts these types of birds. Ms. Moore stated that through her association with Palomacy Pigeon and Dove Adoptions Volunteer at Avian Underdogs Rescue Association she is able to help find homes for the birds she cannot take. She often encourages people to keep the birds. Ms. Moore stated pigeons are very clean and you cannot get diseases from them. Member Gilstrap asked what became of those birds. Ms. Moore stated requests are posted on a web site and the requests follow a cycle. For example, during the summer/wedding season she will see a lot of posts about white birds. White birds do not survive in the wild as their color makes them easy prey as they stick out like a "flying happy meal". Member Gilstrap asked what percentage of the requests are for permanent homes. Ms. Moore stated there are a lot of foster homes in the network and most people hold on to the birds until a place for them can be found. The organization is worldwide and one thousand requests is a nation-wide number.

Alternate Member Doherty asked if the Building Department has gotten any complaints about these birds. Assistant Building Inspector Proulx stated, yes, that was what brought the Building Department to the property, a complaint from one of the neighbors. Ms. Moore stated the complaint was about the rooster which she got rid of the day the Building Department came to her property. Assistant Building Inspector Proulx stated no, it was about all the birds. Member Zuckerman asked if the pigeons are let out periodically and fly back? Ms. Moore stated no, they are not let out to fly. Member Gilstrap asked if the birds ever leave the aviary. Ms. Moore stated no, they do not, which is why the aviary is so large so the birds have room to move around. Member Gilstrap asked if this was normal and if it was healthy for the pigeons not to fly. Ms. Moore stated it is normal and healthy as pigeons not to fly, they only fly to get food.

Member Gilstrap asked if Ms. Moore knew the Village had applicable law in regards to keeping pigeons when she set up the aviary. Ms. Moore stated she did not.

Member Zuckerman asked how many square feet her property had. Ms. Moore stated it was ten thousand something. Member Gilstrap stated it was ten thousand and sixty-three square feet.

Member Zuckerman asked if there is a case pending in the courts, without going into too much detail. Ms. Moore stated yes, and it is still pending. Assistant Building Inspector Proulx stated they have a court date for tomorrow night (May 11, 2022). Member Zuckerman asked about the first time the Building Inspector was there. Ms. Moore stated a little over a year. Member Zuckerman asked if it was fifteen months ago. Ms. Moore stated yes, that was right.

Member Zuckerman stated that the code does not have a definition for fowl so the next place to look would be the latest addition of the addition of Webster's Collegiate Dictionary which defines fowl simply as bird. There is no other specification there. Chairman Baum stated it is clear pigeons are considered fowl under the Village code.

Chairman Baum asked Ms. Moore if there was anyone else in the Village that maintained these types of birds. Ms. Moore stated that no one else maintains these birds.

Chairman Baum asked the Board if they had any other questions before they open it up to the public. The Board did not.

Chairman Baum opened the Public Hearing for public comments.

Richard Alley, of 32 Summit Street, stated he lives within two-hundred feet of this property. He was curious as to why the question "Do you let these birds fly?" was asked and the answer was no. Was this correct? Chairman Baum stated that is correct. Mr. Alley stated that the birds are allowed out to fly. Ms. Moore stated that is a wild flock. Mr. Alley asked if there is a wild flock that congregates around the aviary. Ms. Moore stated yes, you can see them on the phone lines over by the ponds in town. Mr. Alley stated he is not sure why they congregate. Ms. Moore stated her birds throw seed out and they come and get the seed, and other neighbors feed the wild birds. Mr. Alley stated just to be clear those birds in the aviary have never been out and all the birds they see flying are wild birds. Ms. Moore stated yes, most of her birds have bands on them. Mr. Alley asked if Ms. Moore's birds were let out would they come back. Ms. Moore stated true but some birds may go back to their old homes.

Mr. Alley asked how these birds are fed. Ms. Moore stated she has a feeder that she fills every morning but they do like to crack their seeds and push the remains out. Extra seed is thrown in the yard for the wild birds. Ms. Moore stated the birds you see flying are defiantly feral. Mr. Alley asked why the bird seed is put on top of the aviary. Ms. Moore stated it was so the other birds can eat without rodents and cats getting the seed.

Mr. Alley asked why variances are needed if the aviary is already built. Assistant Building Inspector Proulx stated there were no permits for the structure. Mr. Alley asked if it was going to be allowed for this use or what was going to happen. Assistant Building Inspector Proulx stated if the Board grants the variances, Ms. Moore will need to go to the Building Department for permits. Mr. Alley asked if at that point will the Building Department go out and inspect the structure and then what happens. Assistant Building Inspector Proulx stated yes, that will happen but the first step is getting the variances. Mr. Alley stated according to the legal notice mailed, it says something about twenty-thousand square feet per five fowl, which means for thirty-five birds, one-hundred and twenty thousand square feet are needed for these birds. Assistant Building Inspector Proulx stated yes, either one-hundred or one-hundred and twenty thousand square feet are needed depending on how you read the code. Mr. Alley stated the applicant only has roughly ten-thousand square feet so they are short about one-hundred or one-hundred and ten square

feet. Assistant Building Inspector Proulx stated yes, that is correct. Mr. Alley stated that was pretty significant.

Mr. Alley had a question about the birds. What are Ms. Moore's plans when the birds die, is she planning on getting more? To maintain the thirty or thirty-five birds? Ms. Moore stated no. Mr. Alley stated then after around twenty years you would have zero birds? Ms. Moore stated exactly.

Mr. Alley asked if the applicants get the permits, when do the permits expire or does it stay with the land? Board Attorney Naughton stated the variances, if granted, would stay with the land. Mr. Alley stated that regardless of the owner the variances stays with the land. Board Attorney Naughton stated yes, the variances do. Member Zuckerman stated the permits are for the aviary not the animals and the aviary under the code is an accessory structure. Assistant Building Inspector Proulx stated yes. Member Zuckerman stated that it must meet all the requirements of an accessory structure. Assistant Building Inspector Proulx stated yes. Member Zuckerman stated that the accessory structure must be compatible with the main structure. Assistant Building Inspector Proulx stated all codes will be followed but they have not had a permit request on this yet.

Mr. Alley stated the legal letter did not state this was for pigeons so could the applicant get any kind of bird? Board Attorney Naughton stated that is too general of a question but it would apply to fowl. Mr. Alley stated if the applicant wanted to get chicks a year down the road that would be possible? Board Attorney Naughton stated yes, it was possible. Ms. Moore stated she would not do that. Board Attorney Naughton stated Mr. Alley's point is if the property was sold tomorrow the next owner would be able to have fowl as the variances stay with the property. Board Attorney Naughton explained the Board does make the variances as specific and unique as possible so, depending on the circumstance it may not apply to the next owner or situation. It depends on the situation, which is why she keeps saying it is possible. Mr. Alley stated he understands but does want it noted that it is possible and can open the door for something else even if it is not this owner.

Mr. Alley stated everyone loves what the applicant is doing, it is great, but the aviary is on the property line and he does not feel there is even two-feet between the properties. Mr. Alley feels the Board needs to look at this and he does not feel it is a good idea as the land itself is only in the ten-thousand square foot range falling short of the one-hundred thousand square feet needed.

Elizabeth Alley, 32 Summit Street spoke about her concerns about the seed being put on top of the aviary. She is concerned that attracts feral birds. There are deer, racoons and all kinds of animals due to the deterioration of our beautiful green area in our Village, the animals have no where to go. While she is not an animal expert, cats, dogs and rabbits would be in danger due to the wild birds that congregate on the aviary. Ms. Alley hopes she is not the only one alarmed by that. Secondly, the structure is much closer to her property then two-hundred feet, which give her a perfect view of the aviary. I can see the birds and apparently, I now know I am seeing the wild flock that come and go constantly. We try to relax on our property and we see birds of prey quite frequently circling the applicant's property, that too is something I find alarming. This is because there is obviously something attracting them. My question for the property owner at this time is: Are there any other animals that are being kept in that area, in that structure? Board Attorney Naughton stated the applicant is on mute but she shook her head no. Board Attorney Naughton asked that all comments be directed to the Board and not to the applicant. Ms. Alley stated she appreciates that the answer is no, but can someone come out and check that. Board Attorney Naughton stated any requests for inspection would have to be requested to the Building Department. Assistant Building Inspector Proulx stated it could be done but only if the property owner gave their permission. Ms. Moore stated, they can go right ahead and inspect. Assistant Building Inspector Proulx stated they would contact her to arrange that. Ms. Alley stated that when the wind blows a certain way there is an odor. She is not

sure if this is a result of the birds in the aviary or the feral birds. Ms. Alley stated the structure itself is unsightly, it would be nice if it was cleaned up. If the Board decides to grant the variances it should be cleaned up so it does not look as unsightly as it does now. And, finally, as she understands now, that the variance follows the property not the property owner, who's to say the next property owner will not bring in another rooster so that would be a problem and she would have to make a complaint about that. Ms. Moore apologized about that rooster and wishes they had brought it to her attention sooner.

Chairman Baum thanked Ms. Alley. Chairman Baum asked if there was any one else from the public who would like to speak about this application. There were no other comments from the public.

Chairman Baum stated he is not sure he wants to close the public hearing at this point. He would like to see a survey but he is not sure it is needed for this application. He would like to go view the property himself and he encourages other Board members to do the same. If so, they can get an idea where this is in relation to the other houses and what kind of structure it is. Chairman Baum asked if anyone had any other comments in regards to the application.

Member Zuckerman has two additional pictures and he is not sure they were submitted or not. Member Zuckerman feels these are better pictures of the closeness of the houses and one is a picture of 17 McElroy where you can better make out the property back. Member Zuckerman was asked to submit them to the Board Secretary for distribution to the Board.

Assistant Building Inspector Proulx asked for clarification what the Board wanted to do. She asked if the Board was to approve the structure but not the setbacks when the applicant applied for the permits, would the Building Department have to go back to the Board for the setbacks variances? Chairman Baum stated yes, as it stands now the Board does not have an application for setback variances at this time. Board Attorney Naughton told the applicant if she wishes to amend the application to include the setback variances she should do so. Another notification would need to be sent for the amended application. Ms. Moore said she needed to know what the Board wanted her to do. Chairman Baum stated the Board would need a plot plan with the location of the structure and a survey which is submitted to the Building Department so they can see how it meets the setback requirements in relation to the property lines. Ms. Moore asked if she had to hire a surveyor, if that what you are saying? Chairman Baum stated that was up to the Building Department, he knows they sometimes accept hand drawings on a setback issue and sometimes they want a formal survey depending on whatever building codes they are looking at.

Assistant Building Inspector Proulx stated she has a survey but it is from the 1960's but the house has not moved and neither has the property line. Assistant Building Inspector Proulx could give the applicant a copy and she could measure from the house to where the aviary is, and she could get a rear property line measurement. Assistant Building Inspector Proulx asked if the detached garage was still there. Ms. Moore stated yes. Assistant Building Inspector Proulx stated it would be a perfect measurement from the back of the garage to the property line. Assistant Building Inspector Proulx could give the applicant the survey and she could use it to measure. Ms. Moore asked if she could stop by the Building Department tomorrow and get that. Assistant Building Inspector Proulx said yes. Ms. Moore asked if that gets submitted to the Board. Chairman Baum stated it would have to go to the Building Department to show where the structure is located on the property. The Building Department would then check against the code and they would determine what variance would be needed. Then the application could be amended. New public notices would need to be sent out. The good news is if you can get that done within the next week or two the Board would be able to re-advertise for the next month. Ms. Moore said okay.

Board Attorney Naughton stated the next steps are to go to the Building Department tomorrow and pick up the survey, put the measurements on it, and drop it off for the Building Department to take a look at.

If it doesn't comply, which from the discussion tonight it sounds like it doesn't, the applicant will have to amend the application for this Board, in short order, so that the Board Secretary can work on an amended public notice, for additional mailing to go out for those notices. Ms. Moore stated okay I will do that, I will do whatever you ask me to.

On a motion by Chairman Baum and seconded by Member Gilstrap it was: **Resolved that the public hearing for 17 McElroy be adjourned till June 14, 2022.**

**Ayes – 4**

**Nays – 0**

**Absent – Members Margotta, Czerwinski**

Chairman Baum stated the public hearing will be adjourned until June 14, 2022 and the public may get another notice if the application is amended and there will not be another notice if the application is not amended. The public is welcome to return on June 14, 2022 for any further action on this application.

### **125 Elm Street**

Chairmen Baum read the public notice. Chairman Baum confirmed that the public mailings were done.

Joel Mann from BM Associates, speaking for the applicant, stated the owner of 125 Elm Street also owns 123 Elm Street which is where they have a motor vehicle sales and repair shop. At one point the owner ran a limousine business on the 125 Elm Street property but that was shut down when they found they could not operate that type of business on the property. The application lists six types of variances needed but only one is actually needed since five are preexisting conditions that exist on the property. Anything that is needed for the GB district would need the same number of variances. There will not be any new structures added to the property. There is an office building and a garage on the property which will both be used for the same purpose. The property next door will be used as it is currently being used for storage and repairs. The property is less than two-hundred feet of Crane Park. It is ninety or one-hundred feet from Crane Park, and zero feet from the Heritage Trail as The Heritage Trail runs behind the property. We believe there will be no undesirable change to the neighborhood. It is noted that the entrances to the recreation areas are not within two-hundred feet of the property. The property will be used to expand the same business that is on 123 Elm Street; it is not a new use or a new business. This is not a self-created need as it is an expansion of pre-existing business. This project still needs Planning Board approval. The applicant started with the Planning Board, to get their opinion. The Building Department referred the applicant to this Board.

This matter was submitted to the County for a GML review and it was recommended for local determination on April 8, 2022. The county recommends a vegetative buffer between the proposed application and The Heritage Trail.

Chairman Baum stated the previous use of the property was for a limousine business. What was the garage used for? Mr. Mann did not know. Assistant Building Inspector Proulx, stated they parked cars and limos in the parking lot, the front building was used as an office and the garage was used for storage. Chairman Baum asked if the property was going to be used as a paint shop as well. Assistant Building Inspector



Proulx, stated that was just the title of the section of the code this falls under. Mr. Mann stated he was not aware of it being used as a paint shop only as an expanded use for what the property next door is being used for. Assistant Building Inspector Proulx, stated the primary use is automotive repair and an accessory use of auto sales.

Chairman Baum asked if the same owner owned both properties and when did they purchase 125 Elm Street? Board Attorney Naughton stated the 123 Elm property is owned by 123 Elm Street LLC and the 125 Elm Street property is owned by 125 Elm Street LLC so both properties would have to be put under one name. Chairman Baum asked if these two properties could be merged. Assistant Building Inspector Proulx, stated yes, because they are both commercial. Member Zuckerman asked if the applicant wanted to merge these properties. Mr. Mann stated this was also a discussion that the Planning Board had. Mr. Mann stated he could discuss this with his client as it may eliminate some of the variances. This would also need to get the Planning Board's approval but the owner is willing to look into that. If that is what this Board wants, it could be part of the conditions and then they can get the Planning Board approval. Mr. Mann stated the 123 Elm Street property was purchased September 2018 and the 125 Elm Street property was purchased November 2020.

Chairman Baum asked the Board if they had any comments or questions.

Member Gilstrap asked is it correct that your client intends to operate the same business in the new property and the old property. Mr. Mann stated yes. Member Gilstrap asked where does your client plan to keep the vehicles he is repairing. Mr. Mann stated there is the rest of the property for a parking lot the same as is being done on the other property. Member Gilstrap stated the code limits the number of vehicles that can be on the site to five.

Attorney Naughton stated that the Village Code being referred to states that when the business is not opened, only four vehicles, that need minor repairs and a tow-truck can be parked on the property but cannot exceed a period of more than forty-eight hours. They must be effectively screened from the property line. There is an exception for vehicles that are being held for insurance appraisals. This is from section 200-51.O(2) of the code. Mr. Mann stated he needed to take a look at that so they are compliant. Member Gilstrap stated he wonders how this will work out as you will have greater capacity but you are still limited to the four vehicles. Mr. Mann asked about the sales of motor vehicles as that would have to have a greater capacity. Mr. Mann stated he would look into that. Assistant Building Inspector Proulx, stated this is an active business and enforcement would be hard and is unrealistic. Board Attorney Naughton stated it is an issue and it would be hard to enforce but it should be planned so it is not going to be violated. The Board would like more information on that and if they can provide the percentages between sales and repairs it would be helpful information for the Board. Mr. Mann stated that the Board is looking for a narrative of how the business exists and how it plans to expand.

Member Zuckerman stated if they do plan to merge the lots and put up a vegetative barrier on the 125 Elm Street property as requested in the 239 GML from the county would you please make sure that the barrier is on the owner's property and not on the county property.

Assistant Building Inspector Proulx, stated that 123 Elm Street does have a fence but they put it on Orange County property. The fence needs to be ten-feet from the property line and the county refuses to give them an easement so it needs to be moved. Member Gilstrap stated the pavement goes all the way up to the fence so it is not just the fence.

Mr. Mann stated both this Board and the Planning Board will need the same information. Is there a way to have both Boards together at the same time to see what both Boards want. Mr. Mann is not sure if what he commits to this Board will be enough for the Planning Board and vice a verse.

Member Zuckerman stated the last time 125 Elm Street was before both Boards, the Planning Board was lead agency. At this time, he does not know if that will be the case. Maybe some kind of arrangement can be made between the two Boards to decide on who is going to do SEQRA and who will be lead agency for this. Chairman Baum agreed that there should be a coordinated review between the two Boards.

Board Attorney Naughton had asked Assistant Building Inspector Proulx, about that. Assistant Building Inspector Proulx, stated that 125 Elm Street had only been before the Planning Board one time for an informal review and they were sent to this Board. Board Attorney Naughton stated in this case it might be better to have a coordinated review. For example, this Board can require landscaping and the Planning Board may require more landscaping, usually it is stated as “at a minimum” to be supplemented by the Planning Board. In this instance due to the amount of work and details a coordinated review would be better. Mr. Mann stated due to the complication in this application it would be better to have a coordinated review and he would agree to that.

Chairman Baum stated that due to the pre-existing issues with the property it will need the same variances for the GB District if this property is going to be put to any permitted use. These issues have existed for years. If the lot lines are merged or not the structure will exist in the same locations but he thinks the review and SEQRA should be coordinated.

Chairman Baum would like to see more details in the site plan including screening from The Heritage Trail. Mr. Mann stated the Planning Board did not ask for more detail as they didn't know if the applicant would get the variances.

Mr. Mann agreed to a coordinated review for SEQRA. Mr. Mann asked if it was possible to do a joint meeting between the two Boards, maybe not for every meeting but to have at least one joint meeting to coordinate the questions from the Board members. Chairman Baum stated that a joint meeting between the two Boards have not been done during his tenure which is twenty-two or twenty-three years. Chairman Baum thinks the Planning Board is more suited to take a look at the SEQRA impacts, traffic and what ever else needs to be looked into. The Planning Board can make their determination for SEQRA and then come back to this Board for the variances before they do any site plan approval. The SEQRA has to be resolved first and this needs a coordinated review. Board Attorney Naughton stated for this application it makes sense to have a coordinated review for SEQRA and it will be easier to look into all of the issues that may arise.

Assistant Building Inspector Proulx, stated the Planning Board only did an informal for this application. Mr. Mann stated he will put in a full application to the Planning Board. Member Zuckerman stated this Board would like to know how the Planning Board feels about the lot line merger and how exactly that will be decided. If the lots are merged but fewer variances will be needed and they would be lesser variances. Why should the applicant commit to merging the lots if there will be problems at the Planning Board. Board Attorney Naughton stated if that is done it will make a more specific application to this Board, and issues such as how many vehicles can be parked can be addressed at the site plan level and if a variance is needed that is when it should come to this Board, so the applicant can make those decisions in conjunction with the Planning Board review.

Board Attorney Naughton stated this is a public hearing but this application will not be resolved in one month so this Board needs to decide what it wants to do. Chairman Baum stated he is fine with moving this application out for a few months. Mr. Mann stated the application needs to be heard by the Planning Board before being on this Boards agenda. This application will be adjourned until July 12, 2022. At that time if this needs to be adjourned further, Mr. Mann can submit a letter to this Board asking for further adjournment. The Board agreed.

Chairman Baum opened the public hearing for comments from the public. There was no one from the public in attendance.

On a motion by Chairman Baum and seconded by Member Gilstrap it was: **Resolved that the public hearing for 125 Elm Street be adjourned until July 12, 2022 so the applicant can submit an application to the Planning Board and for a coordinated review. If a further adjournment is needed the applicant will submit a letter to this Board.**

**Ayes – 4**

**Nays – 0**

**Absent – Members Margotta, Czerwinski**

Chairman Baum stated he would compose a letter which will be reviewed with the Board Attorney to be send to the Planning Board in regards to a coordinated review.

### **Approval of Decision for 251 High Street**

Chairman Baum stated that the minutes from April 12, 2022 cover the conversations and logic used to make the decision. Chairman Baum stated that Alternate Member Doherty cannot vote on this as she was not present at the April 12, 2022 meeting.

Chairman Baum asked for minor changes to be made

On a motion by Chairman Baum and seconded by Member Gilstrap it was: **Resolved the Decision for 251 High Street be approved after minor changes are made.**

**Ayes – 3**

**Nays – 0**

**Absent – Members Margotta, Czerwinski**

**Abstain – Member Doherty**

**Approval of Minutes**

Chairman Baum stated the approval for the minutes from April 12, 2022 will be deferred so changes can be made. Board members were asked to submit changes via email to the Board Secretary. After the Board Secretary receives the changes, the minutes will be updated and re-distributed. Chairman Baum asked that these changes be submitted in a timely manner.

**New Business:**

Chairman Baum stated the Village Trustees want to adapt a new law for a building moratorium so the comprehensive plan can be updated. There will be a public hearing by the Village Trustees on May 17, 2022.

Chairman Baum stated there will be exemptions. Applications for area variances, interpretations and applications for single family and two-family homes will still be accepted.

**New Applications:**

None.

On a motion by Member Zuckerman and seconded by Chairman Baum it was: **Resolved the meeting be adjourned at 9:54 p.m.**

**Ayes – 4**

**Nays – 0**

**Absent – Members Margotta, Czerwinski**