

**VILLAGE OF MONROE**  
**ZONING BOARD OF APPEALS**  
**PUBLIC HEARING**  
**August 9, 2022**  
**Via Zoom**

**PRESENT:** Chairman Baum, Members Zuckerman, Czerwinski, Alternate Member Doherty, Board Attorney Naughton, Building Inspector Jim Cocks, Assistant Building Inspector Debbie Proulx.

**Absent:** Members Gilstrap and Margotta

Chairman Baum called the meeting to order at 8:01 pm with the Pledge of Allegiance.

Chairman Baum appointed Alternate Member Doherty to be a voting member. Chairman Baum stated the applicant could wait till there is a full Board to have its application heard since if there are only four voting members and the vote is split, the application is denied. Applicant's Attorney chose to proceed.

**Applications:**

The application of W.C Lincoln Corp. for review of administration decision or order of the Building Inspector in order to issue a Building Permit. 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: 211 Block: 1 Lot: 1 on the tax map of the Village of Monroe and is also known as the address (no#) Sunset Heights.

Attorney Jay Myrow, representing the applicant, stated the applicant's designated Attorney Attorney Dickover, could not attend this meeting so he was representing the applicant in his place. Attorney Myrow gave an overview and stated that this is an appeal of a decision from the Building Department. In a letter dated May 25, 2022 from the Building Department, WC Lincoln was denied a building permit. This application is to appeal that decision.

SBL 211-1-1 is a 19-acre parcel which contains a number of lots that were created by a sub-division map dated 1909. The request to the Building Department was to build a house on Lot 58 within the sub-division. The reason for the denial is Lot 58 is a non-conforming lot in an SR-10 zoning district. In 2008 an application was submitted to build on the lots in SBL 211:1:1. At that time the Planning Board granted a preliminary conditional approval which stated WC Lincoln had vested rights for these lots. This meant the lots established in 1909 were valid lots and were not subject to the SR-10 zoning bulk requirements.

The Building Department's letter gave two reasons for its denials, which are based on the applicant not having vested rights.

Chairman Baum stated that two Zoning Board decisions and two Supreme Court decisions were missing from the application. In 2003 The New York Supreme Court determined there were no vested rights for this property. Attorney Myrow was not aware of these determinations. Chairman Baum stated the decisions copies of the decisions would be made available to Attorney Dickover and Attorney Myrow.

Chairman Baum stated in 2003 this Board determined, that the applicant did not have vested rights and an Article 78 appeal followed. The judge rendered a determination that found the petitioner offered no proof as to the value of the conveyance to the Village, and that there was no construction done so no vested rights existed. Attorney Myrow asked who the applicant was for that case and Chairman Baum stated it

was WC Lincoln. Chairman Baum read the Supreme Court decision. Attorney Myrow asked for the index number which Chairman Baum gave him. Chairman Baum asked the Board secretary to email the documents to the applicant and the applicant's attorneys. Attorney Myrow stated he does not know if the Planning Board's determination superseded the Supreme Court's decision and he would need more time to determine that and to see how to proceed.

Chairman Baum polled the Board members for their comments. Member Zuckerman wondered why we have this large application which has no mention of the prior Zoning Board decisions or the Court decisions in it. Member Zuckerman made reference to Attorney Dickover's comment that was within the application, in the section called "the issue", where there was this sentence "Notable absent from the Building Departments determination either unknowingly or purposely absent....." Member Zuckerman stated he felt that comment was uncalled for. Member Zuckerman wanted to know if Attorney Dickover left out the two previous Zoning Board decisions and the two Supreme Court decisions "either unknowingly or purposely" in this application.

Mr. Jacobowitz, President of the applicant, was able to call into the meeting and he stated that there is a 1924 map that shows paved roads in the area so that should count as improvements to the area. Chairman Baum stated the Board has already made its determination and this is not new to the Board. This item was looked at in 2003 and a decision was made at that time and he would like to know why the Board is hearing it again. This matter has already been decided on, ruled on and litigated on. Mr. Jacobowitz stated that the Planning Board made a decision that the property had vested right back in 2007. Chairman Baum stated he did not know how the Planning Board could overrule the determination of this Board and the Supreme Court. The decisions by this Board and The Supreme court happened eight years before the Planning Board made this determination. Chairman Baum does not know if the Planning Board even has the authority to make a determination on vested rights. Chairman Baum stated the legal procedures need to be resolved before it is determined if the Board can even hear this application. Attorney Myrow stated they will have to look at the decisions and asked if the Board was going to open the public hearing and then adjourn it. Chairman Baum stated, yes, that is what the Board was planning on doing.

Chairman Baum opened the public hearing and asked if any members of the public had any comments. There were not comments from the public. Chairman Baum asked a second time and there was still no public comment.

On a motion by Chairman Baum and seconded by Member Czerwinski it is resolved: **to adjourn the public hearing for WC Lincoln to the September 13, 2022 meeting.**

Ayes – 4

Nays – 0

Absent – Members Margotta and Gilstrap

On a motion by Chairman Baum and seconded by Member Zuckerman it is resolved: **to approve the July 12, 2022 meeting minutes.**

Ayes – 4

Nays – 0

Absent – Members Margotta and Gilstrap

On a motion by Chairman Baum and seconded by Member Czerwinski it was: **Resolved the meeting be adjourned at 8:35 p.m.**

Ayes – 4

Nays – 0

Absent – Members Margotta and Gilstrap