



The proposed wall sign was 3' x 18' square feet and was 3' over the allowance in the Code. Chairman Wick stated the wall sign Code references a table 21-1 which didn't exist but there was a table in Municipality with a different title. CEO Jaffee stated there was a contradiction in the Code. §123-21N in the Code stated that multiple businesses, each business could have up to 24 square feet but a single business could only have 12 square feet. The front façade of the building was 60' and 90 square feet of signs could be placed. CEO Jaffee noted that the sign was the standard NAPA sign and two others existed in the Town which replaced existing signs. The Code required new signs to be allowed upon review by the Planning Board. In its review of the present application, the Planning Board determined that a variance was required. CEO Jaffee noted that although a public hearing was required, NAPA pays for the signs, the application was time sensitive, and he hoped the ZBA would consider rendering a decision after closing the public hearing.

Chairman Wick noted that the ZBA may consider a decision pending the outcome of the public hearing. Member Tomassetti clarified that the sign was 3' x 18'. CEO Jaffee noted that Members could see the actual sign displayed at the West Park Auto.

The Public Hearing would be scheduled for the December 2024 meeting.

**Chairperson Wick called for a motion to approve payment of vouchers submitted for the legal services of Dylan Harris, Esq.** Escrow had been established for legal services provided in the review of the Karabec Appeals pursuant to §123-24 A & B. Upon Motion of Chairman Wick, seconded by Member Tomassetti and the affirmative vote of 5 members, the negative vote of 0 members, the abstention of 0 member and 2 members being absent, the Motion was carried by the following vote:

<b>Member:</b>	<b>Vote</b>
Karl Wick, Chairman	Aye
Guy Brought	Aye
Gloria Van Vliet	Absent
Katie Zahedi	Absent
James Tomassetti	Aye
Mike Pittner	Aye
Kathy Kiernan	Aye

Attorney Harris would break out legal services presently reflected on his voucher Invoice No. 738526 into two separate vouchers so that the appropriate fees to be charged against escrow could be determined and another for legal services to the ZBA.

**PUBLIC HEARING**

**09-24-24-01                      Immordino Variance, 687 Broadway, Ulster Park, SBL No. 64.3-1-18.100**

No one was present for the application.

Town resident Mercedes Karabec inquired what had changed since the use of the land was originally deemed seasonal and what had changed – what circumstances were now that prompted the request to inhabit year-round.

Member Zahedi asked if CEO Jaffee could provide insight. CEO Jaffee stated that originally, the property was a cabin development but years ago, it was subdivided, and ownership was held privately. There were no restrictions prohibiting the issuance of permits for HVAC and insulation. The Secretary was requested to research old records to see if they could be available for the ZBA to review. CEO Jaffee stated units had installed new septic and wells.

Member Tomassetti asked if the ZBA granted the change in use from seasonal to year-round, would the owner be required to upgrade. Chairman Wick stated a stipulation could be made that the cabins be upgraded to meet the requirements of the current weatherization standards. The Applicant was currently upgrading the weatherization to highest standards of the State Code but the Town was restricted from issuing a certificate of occupancy without approval of the ZBA changing the use.

The Public Hearing would be kept open until December 2024.

**08-23-24-01                      Karabec Appeal of CEO June 28, 2024 Letter of Determination - §123-24(A)**

Paperwork had been submitted from J&G Law dated October 15, 2024, a November 11, 2024 letter from Willingham Engineering relative to base density, letters dated May 21, 2024 and November 5, 2024 from Attorney Stenger. Chairperson Wick instructed the Members to read the documents and review for consistency.

Attorney Stenger stated there were two (2) appeals pending, both appeals speak to the interpretation of the Town Code but don't speak specifically to the Yan application and the Appeals ask that the interpretations be provided on a Townwide basis.

One pertains to the issue of the rule of base density and whether or not, on a Townwide basis, the Code controls any application made under the summer cottage colony under §123-24(B). The Appeal pertinent to §123-249(A) seeks an interpretation from the ZBA as to a Townwide statute which stated that no dwelling unit less than 18' in width could be located anywhere except a manufactured home district without a variance.

The Public Hearing commenced at 7:35 p.m.

Dennis Suraci – 177 Lindorf Street - Provided a written comment dated November 19, 2024 for the record. The submission included dictionary definitions of “width” and “length” as well as definitions taken from the Esopus Town Code and their application to the CEO’s Determination of June 28, 2024. Mr. Suraci’s opinion was that the units proposed in the Yan application did not comply with the Code requirements of residential dwelling units and were not allowed. Regardless of what the CEO Jaffee classified the units, if they met the requirements of a

“residential dwelling unit” having complete cooking, sanitary, sleeping facilities for the exclusive use of the occupants of the dwelling units...”

Individuals who spoke at the prior evening’s Planning Board meeting, there was a woman who noted that she purchased her home to live in an R40 residential neighborhood and received notices for sexual offenders in the vicinity which would not occur for any transient people.

Member Tomassetti noted that residential neighborhoods contained Air B-n-Bs and took exception to the statement relative to transients. Chairperson Wick cautioned that Attorney Harris warned to keep on the topic and not to apply to any particular project and discount comments not pertinent to the specific topic. Member Zahedi stated that she had purchased her home with certain expectations and that neighboring properties had the right to develop their properties.

Derick Karabec – 34 Hudson Lane – Mr. Karabec provided written comment not regarding a particular project but addressing the criteria of zoning and how it inter-relates to other zones. He clarified that the May 21, 2023 request was whether manufactured dwellings less than 18’ in width were allowable in a summer tourist cottage colony. Mr. Karabec read the Determination which included a statement that the summer cottage tourist cabins were not dwelling units. He then proceeded to read various definitions from the Town Code and excerpts from CEO Jaffee’s September 5, 2023 code clarifications. Mr. Karabec requested that the ZBA to review the presented information and make a determination as to whether the CEO made the correct interpretation. He asked if the manufactured tourist cabin less than 18’ wide fall under the same criteria as a one family dwelling unit in accordance with §123-24A or is it exempt as indicated in CEO Jaffee’s June 28, 2024 Letter of Determination.

At the request of the ZBA, CEO Jaffee clarified definitions code for residences and lodging. CEO Jaffee stated that stated that New York State was a home-rule state and the NYS Building Code doesn’t regulate if the Town Code has a definition. CEO Jaffee read excerpt of Code definition §123-61 for dwelling unit and stated that “..lodging.....or other similar structure shall not be deemed to constituted a dwelling unit.” He then referenced the hotel, motel, resort definition which addressed transient accommodations. Although the unit may be built to standard, it doesn’t qualify as residential. The Code allowed the use in the R40 zoning district.

Chairman Wick requested clarification between a modular home versus a manufactured home as referenced by Mr. Yan. Mr. Yan stated that manufactured homes were typically movable structures located in mobile home parks wherein the landowner charged for individual lots. Modular construction were structures built in factories and brought onto site and intended to remain permanent. Many buyers prefer modular construction as an alternative to stick built construction due to less disturbance on a site.

Member Zahedi stated Mr. Stenger’s posturing was distracting and asked if he could not stand behind her while addressing the ZBA.

Kenneth Stenger, Esq. - Attorney Stenger directed attention to his August 23, 2024 application and reviewed the contents therein. The issue before the Board was not specific to the

Application that generated it but was asking for a Townwide interpretation for how to measure a structure and whether it should be allowed outside the manufactured home district.

Attorney Stenger refuted Attorney Horan's contention that the application was not timely made. The issue of the width of the buildings came to light on May 6, 2024. With 60 days from the date of CEO Jaffee's June 2024 response. Attorney Stenger stated that the issue had been revisited by CEO Jaffee in the determination of September 25, 2023 which changed in the June 28, 2024 and there was no explanation as to why his position changed.

Tommy Yan – Provided October 15, 2024 J&G Law letter, November 10, 2024 response letter to Karabec's Appeal of the CEO interpretation of §123-24A, floor plans and an email dated October 1, 2024 from Joseph Hill of the NYS Department of State. Mr. Yan stated that the cabins were modularly constructed and required to be certified by the NYS Department of State and were not subject to HUD requirements. He referenced the October 15, 2024 letter of J & G Law with attachments and noted the fourth page which address the "length" and "width" debate and there was a misconception that the definitions should be flipped relative to the units. Dimensions of the units had been provided with the main door entrance. Derek Leung added that ADU's would not comply with the Code if the definition provided by the Karabec's was applied.

Chairman Wick requested clarification between modular and mobile (manufactured) home. Manufactured homes are structures that are movable and located on lots rented to individual and are more affordable. Modular was different in that structure was built in a factory and relocated to a permanent location to be assembled and finished. Many purchasers prefer modular homes due to being able to obtain same quality structure as a stickbuilt and less impact on the property to finish.

Kenneth Stenger, Esq. - Reminded that what was before the Board was §123-24A and urged the Members to read. The Appellants were asking that the Code be interpreted for application throughout the Town and nothing in the section references mobile homes, manufactured homes, State or Federal regulation and simply stated that all detached one family dwellings be a minimum of 18' in width and any less than 18' be located in a mobile home district.

CEO Jaffee reminded that as previously stated, dwelling unit definition exempts lodging units and therefore, the 18' requirement would not apply.

Member Tomassetti asked CEO Jaffee to address the contradiction of CEO Jaffee in his determination. Jaffee responded that construction standards are different from zoning requirements and the Code definition exempts the units from the requirements of a single-family dwelling unit. CEO Jaffee provided copy of definitions for Secretary to provide to the Members.

Lorine Karabec – Stated summer cottage colony wasn't specifically defined in the Code and asked where it appeared in the definitions in relation to extended stay. +

In response to Member Zahedi, CEO Jaffee provided clarification regarding lodging and dwelling units (contained in Chapter 123). Lorine Karabec remarked that “summer cottage colonies” were not covered under the definition being applied.

Steve Riley – 79 Hudson Lane – Common sense should apply. A hotdog is a foot long, not a foot wide.

Robert Hare – 130 Carney Road - Read written comment submitted for the record. His argument was whether a summer colony should be allowed on a driveway with poor access.

Collie Brewer – Had Googled definitions of length and width and read findings.

Derick Karabec – Esopus Barns developers had specifically stated that the units in its development would not have kitchens and therefore, were different.

Member Pittner noted that the positioning of a structure not always determined the length and width and inquired what was the positioning of the units. CEO Jaffee stated that he reminded the Board that what was before the ZBA was that the Code didn’t apply to the structures (not the project). The definition in the Code states the units are exempt. Discussion ensued between CEO Jaffee and Chairman Wick regarding what was being examined. Member Tomassetti noted the Agenda indicated Appeal of the CEO Determination of §123-24 A.

Member Tomassetti stated that the Town Code was not being appealed. Chairman Wick asked Attorney Stenger what was being requested. Attorney Stenger responded that the request made was determination as to what structures fit within it – give an interpretation as to whether 18’ long structures were allowed. Member Wick stated that the Appeal was project specific and may need to be reviewed as such. Chairman Wick stated that legal research was necessary to determine if a new or amended application was needed to be filed. Given the information provided by Attorney Stenger and contained in the Application, the submission may be incorrect and advice of Legal Council would be obtained.

Attorney Harris read the Interpretation Application on file which stated “appeal from the Building Department Letter of Determination dated June 28, 2024, holding that §123-24 (A) does not apply to the Castlemore development project.” In his opinion, this appeal is case specific and relative to the project.

Upon Motion of Member Tomassetti, seconded by Chairman Wick, a motion to continue the Public Hearing to December 17, 2024 passed 5-0-2.

**08-23-24-02                      Karabec Appeal of CEO June 28, 2024 Letter of Determination - §123-24(B)**

The Public Hearing commenced at 9:05 p.m.

Attorney Stenger requested the ZBA review the application as a whole. He read the density definition from the Town Code §123-24B. The Appeal was specifically an appeal from a Determination of the CEO. Mr. Stenger stated the question was whether the density calculation stated in §123-24(B) control the question of density presented for a summer cottage colony as presented in 123-3D(3)(c). There was a letter in the application from Attorney Stenger dated August 23, 2024 and submitted as part of the Application to make clear the issue before the ZBA. Request was to consider density calculations, removing constrained elements prior to calculating. Attorney Stenger believed the density calculations were being reviewed by the Planning Board and may appreciate decision from the ZBA.

CEO Jaffee did not argue the position of Attorney Stenger. CEO Jaffee issued a general review which would be reviewed by the Planning Board to apply the Code and confirm what was acceptable for development and density. The Planning Board and engineers are responsible for the appropriate review for the site plan and special use permit.

Lorine Karabec – 34 Hudson Lane – Read from written statement prepared for the record. Ms. Karabec noted calculations necessary to determine bulk density and asked the ZBA to review the statutes and determine whether CEO Jaffee’s interpretation of the Code was correct.

Tommy Yan – Presented written documentation from Engineering Consultant Matt Towne, P.E. with his calculations for base density. The number of units calculated to be allowed were proposed to be less than what was allowed. The Ulster County Planning Board had also provided written comment which confirmed that the density had been reviewed and was acceptable.

Attorney Harris stated that the density calculations were determined in the final decision of the Planning Board which was collecting data throughout the process.

Upon Motion of Chairperson Wick to close the Public Hearing, seconded by Member Tomassetti and all present voting in favor, the Public Hearing was closed at 9:39 p.m.

The ZBA voted in favor of increasing the escrow and would table the amount to be determined upon receipt of an accounting from the Attorney. Attorney Stenger stated he would pay any outstanding bill within 10 days from the date of receipt.

Upon Motion of Chairman Wick, seconded by Member Brought and all in favor, the meeting was adjourned at 7:28 p.m.

Respectfully submitted,

Lisa K. Mance, Administrative Assistant  
Submitted on December 9, 2024  
Approved: December 17, 2024