

**RESOLUTION OF FINDINGS AND CONCLUSIONS  
PLANNING BOARD OF THE  
BOROUGH OF WOODBURY HEIGHTS  
2017-11**

WHEREAS Raymond and Wilma Lodato have applied to the Planning Board of Borough of Woodbury Heights seeking preliminary and final site plan approval to establish an ice cream shop with drive-thru service along with bulk variances and waivers; and

WHEREAS, the property in question is located on Elm Avenue, Block 70, Lot 1.04 in a CC zone; and

WHEREAS, the Borough of Woodbury Heights Planning Board has the right to exercise to the same extent and subject to the same restrictions, all the powers of the Zoning Board of Adjustment; and

WHEREAS, the Borough of Woodbury Heights Planning Board has had an opportunity to review the application for Raymond and Wilma Lodato seeking preliminary and final site plan approval to establish an ice cream shop with drive-thru service along with bulk variances and waivers and a hearing having been held thereon and proper notices having been served on all surrounding property owners as required by Statute; and

WHEREAS, the Borough of Woodbury Heights Planning Board has made the following factual findings:

1. Richard F. Roy, Jr., Esquire appeared on behalf of the applicants. The applicants are not the owners of the property in question. However, they wish to establish a business serving primarily ice cream and water ice. They will accommodate take-out and drive-thru service, but there will be no inside seating.

2. The parcel is on the corner of Elm and Barlow Avenue, consisting of .424 acres with a building that was formerly utilized as a retail establishment but is now vacant. The applicant proposes to utilize the existing building with improvements to the site. The applicants are seeking the following variances and waivers:

- a. A waiver from the requirement to provide a loading space.
- b. A waiver from providing curbing for the perimeter of the parking lot.

- c. A waiver from the required parking and driveway setbacks.
- d. A waiver to permit an over-flow parking area to be a stone surface.
- e. A waiver to permit 18' long parking spaces where 20' is required.
- f. A waiver to allow deviation from the required paving details.
- g. A waiver from providing curbing of the driveway access on Barlow Avenue.
- h. A waiver to allow more than one driveway.
- i. A waiver to provide a 16.6' drive aisle where 24' is required.
- j. A variance to allow 4 signs where only 2 are permitted, 3 wall signs and 1 free standing sign.
- k. A variance to permit the signs to exceed the total square feet permitted by ordinance, to permit the free standing sign to be set back 3.5' where 10' is required, permitting a sign height of 19.75' where 15.54' is permitted and to permit the wall signs to exceed the roof line of the building.

3. The applicant presented the testimony of Professional Engineer, Gary R. Civalier of Civalier Engineering and Surveying, Inc. The Board carefully considered the review letter of April 21, 2017 prepared by Planning Board Engineer, Mark R. Brunermer, P.E., C.M.E. and the review letter of May 1, 2017 prepared by the Planning Board's Professional Planner, Tiffany A. CuvIELlo, P.P.

4. The application submitted by the applicants substantially complies with the requirements of the Borough of Woodbury Heights Ordinance. The request by the applicants can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Borough of Woodbury Heights Ordinance. The applicants have shown the special reasons necessary to grant the variances and waivers requested.

5. Because of the nature and configuration of the applicant's land, failure to grant the variance will work a peculiar and exceptional practical difficulty on the applicant.



NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Woodbury Heights that the application of Raymond and Wilma Lodato seeking preliminary and final site plan approval to establish an ice cream shop with drive thru service along with bulk variances and waivers is hereby granted subject to the following conditions:

1. The applicant shall obtain any other applicable governmental approval which the applicant is required to obtain from any Federal, State, County or Local Governmental Agency or body.
2. The variances and waivers set forth in this resolution as well as those set forth in the applicant's public notice and the review letters prepared by the Planning Board Professionals are granted subject to the conditions set forth herein.
3. The business shall accommodate drive-thru and take out customers only, there shall be no inside seating. Hours of operation shall be limited to 11:00 A.M to 11:00 P.M. seven days per week. There shall be no public bathrooms and no outside speaker for the drive-thru.
4. There shall be no food preparation on site. The products to be offered shall include, ice cream, water ice, cookies, brownies, baked goods and other items customarily associated with an ice cream parlor.
5. There shall be no tractor trailer deliveries made to the site. All deliveries shall be made outside of the hours of operation.
6. The applicants shall provide the results of test well samples to be taken in the month of May.
7. The applicants shall install a new light pole adjacent to Elm Avenue. The light shall not be attached to the sign. There will be designated employee parking parallel to Elm Avenue with signage indicating that it is for employee parking only.
8. The applicants shall consult with the Board Professionals regarding the width of the drive aisle. Circulation and safety issues related to vehicle and pedestrian traffic shall be subject to further review by the Board after the business has opened and there has been an opportunity to observe vehicle and pedestrian traffic. A cross walk and handicapped ramp will be installed across Elm Avenue near Barlow Avenue within the two year maintenance bond period if customers are found to be using the Borough's parking lot for overflow parking.

9. Additional signage to be placed within the County right of way is subject to County approval.

10. The applicants shall secure a 15' sewer easement from the owner of the property subject to review and approval by the Borough Solicitor and Engineer.

11. All lighting shall be controlled by a timer and turned off no later than one hour after closing.

12. The road widening and deceleration lane for Barlow Avenue shall be subject to review and approval by the Borough Council.

13. The applicants shall be permitted to add a directional sign on Barlow Avenue directing customers to the drive-thru entrance. The sign shall comply with existing ordinance requirements. Additional landscaping will be added along Barlow Avenue in the area where the applicant was granted a waiver for providing curbing.

14. The applicants shall address all comments set forth in the review letters of the Planning Board Engineer and Planning Board Planner to their satisfaction. In the event the Planning Board Professionals and the applicants cannot resolve such issues, the applicants shall be required to return to the Planning Board for further review.

15. The applicant shall post the necessary performance and maintenance bonds along with inspection escrows.

Adopted at a regular meeting of the Borough of Woodbury Heights Planning Board on June 5, 2017.

PLANNING BOARD OF THE BOROUGH  
OF WOODBURY HEIGHTS



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BRUCE FARRELL, CHAIRMAN

ATTEST:



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SHANNON ELTON, SECRETARY