

**Meeting Notes
Village of Upper Nyack
Zoning Board of Appeals Meeting
Tuesday, February 7, 2023, 7:30pm**

MINUTES

A meeting of the Zoning Board of Appeals of the Village of Upper Nyack was held on the above date and called to order at 7:35 pm by the Chairman, Thomas Englert.

Other Board members present: Steve Lubeck, Paul Curley, Meg Fowler and Beth Wittig.

Also present: Noelle C. Wolfson, Esq., Consulting Attorney, and Janet Guerra, Board Secretary.

7:35 p.m.: Review of the minutes of the meetings of November 15, 2022 and January 3, 2023. The Chairman asked if there were comments to the draft minutes and the Board members had no comments.

Motion to approve the November 15, 2022 Minutes.

**Motion: Paul Curley
Second: Steven Lubeck
VOTE: 4-0, 1 (abstain- Wittig)**

Motion to approve the January 3, 2023 Minutes.

**Motion: Beth Wittig
Second: Paul Curley
VOTE: 3-0, 1 (abstain- Lubeck and Fowler)**

7:37 pm: **Maria Belen Soraire Barrionuevo, 115 Larchdale Avenue, County Map No. 60.05-02- 05.01. Appeal #2023-01.** Request to Renew Special Permit pursuant to the requirements of the General Ordinance 5.13 of the Code of General Ordinances of the Village of Upper Nyack to keep, harbor or breed goats at an existing single-family residence located in the Residence R-40 District

Representing the Applicant: Maria Belen Soriare Barrionuevo and Chase Altneu

The applicant keeps two Nigerian Dwarf goats on the premises. Special permits for such goats were granted in December of 2021 and October of 2022.

There has been a persistent issue with the goats leaving the property and walking in the public street unattended creating a traffic safety issue near the property, notwithstanding the fact that as

a condition of both prior approvals the goats were required to be kept on the property or leashed when taken off the property.

The Chairman asked the applicants what efforts they have made to comply with the conditions of the approval.

Village Code Enforcement Official, Michael Nolan, replied that since the last meeting (October 2022), the applicants have made significant improvements to enclose the existing post and rail fence with chicken wire. However, CEO Nolan explained that there are two spots in the fencing and front gate that are still open and allows the goats to leave the premises unattended. That said, Mr. Nolan indicated that the addition of the chicken wire improved the condition of the animals leaving the property unattended and complaints of that nature have diminished.

The applicant advised that it could close those holes and that in spring a fence with chicken wire would be erected on the south side of the property.

There was a discussion about an email from a neighboring property owner claiming that the goats make significant amounts of noise for prolonged periods when they are enclosed in the pen.

The applicant said that the corner is very busy and people passing by engage the goats and they make noise. Additionally, the applicant explained that because the goats are babies, they tend to make more noise (like babies crying) and the noise will decrease over time as they grow.

There was a discussion about the proximity of the neighbor's house to the pen and a note that the complaint was that the noise has been continuous for hours consistently.

Board member Wittig asked if there is anything the applicants can do to dampen the noise, such as relocating the goats on the property or using different materials to enclose the pen to reduce the noise.

The applicant presented the survey and there was a discussion of the location of the pen, the specifics of the pen enclosure and potential options for reducing the noise levels.

Board Member Curley asked if the pen was covered and the applicant responded in the negative, that the goats are not often inside. Board Member Curley asked CEO Nolan to describe what he heard when he responded to the noise complaint and where he heard it from and CEO Nolan explained where he listened to the sound.

There was a discussion about whether relocating the pen was a good option to decrease the off-site noise, but it was the general sense of the board that given the broad range of the sound as described by Mr. Nolan, improving and covering the enclosure and potentially adding landscaping might be more effective than relocating the pen at mitigating off-site noise.

The applicants explained that the goats are only in the pen when they are not home and advised that since the goats are two male neutered goats, if they are not permitted to keep them they will likely be killed.

Board Member Curley explained that he observed the goat in the road last week and was disappointed to see that the condition was not being complied with. He observed that the property is large and it should be fairly simple to keep the goats on site. The Chairman mentioned that he has seen the applicants' chickens (permitted pursuant to a separate permit) in the road.

There was a discussion about how the applicants planned to secure the south boundary line until the fence could be erected in the spring. The applicant advised that they will install a temporary fence until the permanent fence can be installed.

Motion to open the public hearing

Motion: Steven Lubeck

Second: Beth Wittig

VOTE: 5-0

Several members of the public (neighboring property owners Bob Stein, Linda Bean and Bethany Ball, and the applicants' parents) spoke in favor of the issuance of the permit and indicated that they enjoyed having the goats in the neighborhood. They also complimented the improvements that the applicants have made to the property, and indicated that the applicants have taken steps to comply with the permit. They explained how important the goats are to the applicants and the consequences to the goats (that they would have to be put down) if the applicants could not keep them.

Mr. Stien explained that he has discussed the matter with several neighbors, including representatives from the Marydell Faith and Life Center. He said that several of the neighbors (including Marydell) were pleased that the applicants were taking steps to keep the goats from roaming off property unattended and that they would appreciate efforts to mitigate the noise. There was a request for clarification about how many neighbors were complaining of noise impacts and Mr. Nolan explained that he received two complaints and he has listened to the goats making noise for a prolonged period of time that is clearly audible more than 300 feet from the Property line.

There was a brief discussion about the Village's Sound Law, and how it is a separate regulation from the permit that must be complied with. Mr. Nolan explained that it has broad applicability to animals other than the goats, and that, for example, dog owners who allow their dogs to make noise audible off-site for prolonged periods of time are also subject to violation.

There was a discussion about whether the public hearing should be held open or whether it should be closed. The Board's attorney advised that it seemed to be the Board's preference that the applicant take some steps to mitigate the noise impacts in the surrounding neighborhood and to take steps to complete the fence enclosure so that the goats cannot roam off-site unattended.

Although the steps to secure the fencing seemed fairly clear, there was no clear indication about the applicant's proposal to address the noise concerns.

The Board's attorney advised that the Board could make a determination on the application with a short renewal period and have the applicants reapply at which time the applicants would have to explain the efforts to lessen the noise impacts. However, given the nature of the submissions for and discussion at this meeting there is no specific direction or condition that the Board could give to accomplish this, so it would be a very open ended condition. Alternatively, the Board could hold the hearing open and allow the applicants to submit additional information about how they plan to attenuate the noise before a final determination on the permit application is made. The Board members were generally in favor of the latter approach.

There was a discussion among the Board members and the applicants about the meeting dates, procedural paths and the submission requirements. The Board's counsel advised the applicant that they should devise a specific proposal to try to address the noise concerns and provide as much detail about the proposal and how it is intended to mitigate noise as possible. The Board and the Board's counsel advised that it would be helpful if the fence patching could be completed by the next meeting and if photographs of the fencing could be provided. However, the work to mitigate the noise does not have to be completed, it just needs to be proposed with a sufficient level of detail to allow the Board members an opportunity to evaluate it. The applicant requested an adjournment to the Board's April 11th meeting in order to give it time to do that research and prepare a proposal.

There was a discussion about pending legislation before the Board of Trustees that would place the keeping of animals special use permit within the Planning Board's authority and that the applicant would be advised if any procedural changes are needed.

Motion to adjourn the public hearing to the Board's meeting of April 11, 2023.

Motion: Steve Lubeck

Second: Paul Curley

Vote: 5-0

8:34 pm Motion to adjourn the meeting

Motion: Beth Wittig

Second: Paul Curley

VOTE: 5-0