

REGULAR MEETING

June 17, 2004

The Regular Meeting of the Board of Trustees of the Village of Upper Nyack was held at the village hall on Thursday, June 17, 2004 at 7:00 PM.

Those Present: Mayor Michael Esmay, Trustees Peter Malcolm, Vincent S. Morgan, David J. Smith, Karen Tarapata, Village Clerk Carol G. Brotherhood, Village Attorney Robert P. Lewis Esq., Village Treasurer Barry MacCartney

Others identified: Greg Coffey Esq., Geraldine & Donald Waldorf, Terrence & Ellen McCabe, John Colgan, Robert Helmke, Hester Haring Cason, James Cason, Isaac Malkin, Frank Mancione, Bruce Gunther

MINUTES: Held over

COUNTY OF ROCKLAND – Youth Bureau- Waiver of NYS Office of Children and Family Services Eligibility

Trustee Smith made a motion to notify the Rockland County Youth Bureau that the Village of Upper Nyack will waive its State Aid Eligibility and pass those funds on to the Village of Nyack, seconded by Trustee Tarapata and unanimously approved.

AGREEMENT – Lawler, Mutusky & Skelly

Trustee Morgan made a motion that the Board of Trustees approve the fee of \$5,800 for Lawler, Mutusky & Skelly Professional Services agreement 69-04 for a hydrology study in association with the revision of the residential zoning code and authorize the Mayor to sign said agreement, seconded by Trustee Tarapata and it was unanimously approved.

PUBLIC HEARING - LOCAL LAW #9, “Minimum Road Standards” – Article I, Subdivision of Land Regulations

The Village Clerk read the public hearing notice.

The Village Attorney noted that the Board was considering the adoption because there are no standards in place.

The Mayor opened the hearing to the public.

There were no comments from the public and the Mayor asked for a motion to close. Trustee Tarapata made a motion to close the hearing, seconded by Trustee Smith and so moved.

Trustee Tarapata made a motion to adopt the “Minimum Road Standards” as Article I of the Subdivision of Land Regulations for the Village of Upper Nyack, seconded by Trustee Morgan and unanimously approved. On a call for the vote:

AYES: Mayor Esmay, Trustees Malcolm, Morgan, Smith & Tarapata

NOES: None

POLICE REPORT: Read and discussed. Officer Healy noted the department is using a new computer system so not all information was available at this time. There was one attempted robbery of one teenager by another and some minor accidents. Future reports will have more information.

JUSTICE REPORT: Read and noted.

TREASURER’S REPORT – Treasurer noted that the vouchers for this evening are from last year’s fiscal budget. The end of the year report will be available next month. Treasurer MacCartney requested to make some adjustments within the confines of the budget.

Trustee Malcolm made a motion to allow the Treasurer to make the following adjustments:

<u>Amount</u>	<u>From</u>	<u>To</u>
\$2,000	A1990 Contingency	A1110 Justice Court
\$2,000	A1990 Contingency	A1410 Village Operations
\$9,000	A1990 Contingency	A8120 Sewer System

Treasurer MacCartney provided information to Trustee Malcolm regarding the sewer pump station on North Broadway.

The pump failed on Friday night and a discharge occurred. The second pump went failed Sunday. Trustee Malcolm noted that there is some clean water infiltration causing our pumps to work overtime. Superintendent Scanlan hired a service to pump out the station and then discharge into the sewer main on lower Castle Heights Ave. Rapid Pump & Meter Service that services the pump station will rebuild the pumps and have a back up. Trustee Malcolm will get information on pricing and a report from Rapid Pump & Meter for one (1) rebuilt pump, one (1) new pump, one (1) rebuilt as back up.

There is money in the budget for scoping the sewer system to check on clean water infiltration. Trustee Malcolm should know by next Wednesday the cost for the repairs.

Trustee Tarapata made a motion to accept the Treasurer's report, seconded by Trustee Morgan and so moved

VOUCHERS – Read and approved for payment.

APPEALS – RELIEF FROM MORATORIUM –

Before the Board began to hear appeals applications, Trustee Tarapata read from a prepared statement which is attached to these minutes.

1) Geraldine & Donald Waldorf, 409 North Broadway
Have owned the property since 1999. Applicant feels it is economically imprudent to go through the process of spending money on design and drawings that may need to be redone once new zoning changes are made. Also worried that the moratorium could go past 9 months. Wish to construct a new one-family residence.
Mayor Esmay stated that the Board is committed to the 9 month time frame. The Board has reviewed 5 applications for relief and all have been approved. The Board's concerns include slope disturbance and no details are shown on the sketch plan presented. The Board will request the Planning Board to review informally and offer suggestions. The Board also needs a drawing that shows the actual square footage of the dwelling and the area of disturbance on the lot.
Application held over.

2) Terrence & Ellen McCabe, 204 Kuyper Drive
Addition to existing house that was built in the 1960's. No significant trees will be cut down. The driveway will remain in the same location. Village Attorney Lewis noted that the issues that the Board is concerned with are drainage, lot coverage and steep slopes.
Trustee Morgan made a motion concerning application #7 by Terrence & Ellen McCabe for relief from existing moratorium, given the relatively small scope of the addition to the existing structure, no steep slopes and that major change to relevant zoning unlikely therefore relief may be granted, seconded by Trustee Tarapata and unanimously approved.

AYES: Mayor Esmay, Trustees Malcolm, Morgan, Smith & Tarapata

3) Astrith Deyrup, Natalie Venneman and Ingrith Olsen, 309 North Broadway
Application #8 for relief from the moratorium for a proposed 2 lot subdivision. Currently there are three dwellings on one lot. The lot will remain as is. No building is proposed and there will be no changes to the drainage. Astrith Deyrup is in her 80's and her sisters are unable to travel

and it is difficult to care for the main house so they would like to sell the larger house to be renovated. Astrith Deyrup would move to the small cottage and continue renting the other small house on the property.

The Board expressed concern with setting a precedent for granting relief for a subdivision action.

The Board discussed the possibility of a “restrictive covenant” to guarantee no further subdivision or new construction. Mr. Coffey stated that he had not yet discussed that with his clients.

The Board determined that they would like to explore the restrictive covenants on lots. It was noted that the subdivision would probably be subject to ZBA review.

Mr. Frank Mancione, representing the family in the sale of the main house, believes the family would agree to a restrictive covenant. The prospective owner has stated that he only wants to restore the house and would sign something to that effect.

The Village Attorney said the Board could consider using an average density plan with a restrictive covenant.

Mr. Coffey will request his clients get an updated survey that shows and accurate plan and bring it back to the Board in July.

Application held over.

4) Isaac Malkin, 6 Tompkins Court

Application #9 for review of a new residence. This lot is part of the Rose subdivision where the planning board considered average density when approving the subdivision and all drainage has been considered. The house conforms to the current zoning and will not exceed lot coverage limits.

Trustee Morgan made a motion that given the unique situation of this site created by average density which defines what can be done, the fact that variances are unlikely to be needed, proposed fill would restore grade to surrounding area, drainage already defined by subdivision design and contemplated changes to the zoning unlikely to have any effect, hereby grant relief the moratorium seconded by Trustee Tarapata and so moved.

AYES: Mayor Esmay, Trustees Malcolm, Morgan, Smith & Tarapata

NOES: None

Trustee Tarapata made a motion to hold a public hearing at the Regular Meeting on July 15, 2004 for the Stormwater Management SPDES Permit, seconded by Trustee Morgan and so moved.

AYES: Mayor Esmay, Trustees Malcolm, Morgan, Smith & Tarapata

NOES: none

There were no further comments from the public.

Trustee Smith made a motion to adjourn, seconded by Trustee Morgan and so moved.

Meeting was adjourned at 9:00 PM.

Respectfully submitted,

Carol G. Brotherhood

Before we begin to consider the requests for relief from the moratorium that are before us this evening, I would like to quickly review the reasons for this moratorium.

The Village Comprehensive Plan, adopted in 1999, specifies the Planning Goals for the Village and, on page three, states that "The Zoning Ordinance... should be amended by the Village Board in accordance with the goals and guidelines stated in this Comprehensive Plan."

To this end, the Village began the process of looking at the 1962 Zoning Ordinance in the late 90s with the development and adoption of the Village Comprehensive Plan. Last year we declared a moratorium on commercial development while we revised the commercial zoning ordinance. That process was completed in under 8 months. Now we are look at the residential zoning code with a 9-month moratorium.

The moratorium allows us time to identify and address shortcomings in the current zoning code with the help of the Planning Board and Zoning Board of Appeals and without the pressure of new applications. Typically, the announcement of proposed zoning changes results in a rush of applications so that they can be "grandfathered" under the old zoning. Given the known shortcomings of the old zoning, the current moratorium is designed specifically to avoid allowing decision to be made that will conflict with the goals we have set for the moratorium.

SOME OF THE GOALS ARE:

- To develop guidelines for the Planning Board and Zoning Board that address the impact that individual lots have on adjoining properties and the surrounding environment, as regards changes in drainage and prevention of erosion.
- To develop guidelines for the Architectural Review Board that address the impact that new construction has on surrounding properties
- To achieve the goals set by the new Federal requirements for reducing stormwater runoff and erosion.
- To direct and control development on steep slopes, those greater than 15%, with a steep slope formula.
- To identify and define our position on development adjoining watercourses that run through the Village, especially as regards the new Federal requirements for reducing stormwater runoff and erosion.
- To define guidelines for subdivision, including our position in cases where there are several existing structures on a single lot.
- To set minimum standards for all new roads, public and private.
- To address the many small technical questions that the Planning Board, Zoning Board of Appeals and Architectural Review Board have asked the Village Board to clarify.

Finally, I would like to remind read the wording of the moratorium regarding the appeals process:

The Village Board has the power to modify the moratorium upon its determination, in its absolute legislative discretion, that the variance or modification requested is necessary to avoid unusual or unnecessary hardship to the affected property owner and is consistent with the intent of the moratorium law.

Thank you. Now please proceed with your presentation.