

**Village of Upper Nyack
Planning Board Meeting
Wednesday, September 16, 2020, 7:30pm**

Minutes

A meeting of the Planning Board of the Village of Upper Nyack was held on the above date via videoconferencing in accordance with the Governor's Executive Order 202.1 due to the COVID-19 emergency and called to order at **7:30pm** by the Chairman, William Pfaff.

Other Board members present: Ellen Simpson and Karen Olson. **Also present:** Dennis Letson, Village Engineer; Noelle C. Wolfson, Esq., Consulting Attorney; and Jillana Sinnott, Secretary.

7:30pm: The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on September 9, 2020. The Chairman also reviewed how the Zoom meeting would take place due to the COVID-19 emergency in accordance with the Governor's Executive Order 202.1.

7:32pm: Approval of Minutes: Member Karen Olson moved to approve the minutes from July 15, 2020 as amended; SECOND: Ellen Simpson; unanimously APPROVED.

7:33pm: 645 North Broadway LLC, 645 North Broadway, County Map No. 60.06-01-06; 647 North Broadway LLC, 647 North Broadway, County Map No. 60.06-01-05.02; 649 North Broadway LLC, 649 North Broadway, County Map No. 60.06-01-05.01. *Continuation from June 17, 2020.* Application for site plan approval for landscaped gardens, renovations and site work across three tax lots of single family residences located in Residential Zoning District R-1. Public Hearing to adjourn to October 21, 2020.

7:37pm: Brookfield Nyack, LLC, 519 North Midland Avenue, County Map No. 60.09-03-48.

Said property is located in Residential Zoning District R-3.

The APPLICANT was represented by Jay Greenwell, Land Surveyor; George Altatsas, Contractor; Elizabeth Parks, Architect; Blythe Yost, Landscape Designer and Marc Mallow, Homeowner.

The Application is before the Board for amended site plan approval, approval of landscape plan and minor site plan modifications (positioning and orientation of the house and minor driveway modifications).

Site plan approval for the demolition of the existing house on the property and construction of a new single family residence on the property was granted at the Board's July meeting on the condition that the applicant seek approval of a landscape plan for the property at its September meeting.

Blythe Yost, Landscape Architect, described that the turnaround to the driveway has been moved closer to the house to reduce the amount of macadam in front of the house and to save a Beech tree and large pine. There will be simple plantings and evergreen layers around the house. The rear yard has a

considerable slope to the east. The invasive overgrowth will be removed and a ground cover shrub and 12 trees will be added to the rear to stabilize the slope.

Jay Greenwell, Land Surveyor, spoke about the site plan changes. The house has moved north/south slightly to be closer to where the existing house is and has been rotated to the west. The new house is longer than the existing house and has been moved slightly to save the Beech tree in the southeast corner. The driveway has been made into a tighter loop that is no longer in front of the house. The drywell has been relocated to an area towards the pool. The impervious area has been modified.

The BOARD read and reviewed the report from Dennis Letson, Village Engineer, whose comments were entered into the record as follows:

State Environmental Quality Review (SEQR)

SEQR was discussed and concluded at the previous meeting.

Site Plan

1. *Zoning*
 - a. *Previous comments have been addressed.*
 - b. *The proposed site plan is compliant with zoning.*
2. *Given the disturbance area over 10,000 s.f. a full SWPPP will be needed.*
3. *Infiltration test requirement is indicated in note 11.*
4. *A stormwater maintenance agreement will be required for the site.*
5. *The purpose of the submittal is the Board's requirement that the applicant return with the landscaping plan at the Sept meeting. The landscape plan shows an additional 12 trees in the wooded area and significant groundcover shrubs adjacent to that area. There are also significant foundation plantings proposed.*

Board Member Karen Olson noted that the site plan should reference the landscape plan.

The BOARD had no further comments at this time.

The BOARD opened the public hearing and listened to comments from the public regarding the demolition of the existing residence and the site plan for the new single family residence.

Louis Tharp, 515 North Midland Avenue agrees with everything that the Applicant is doing and feels it will be an incredible addition to the neighborhood.

MOTION: Member Ellen Simpson moved to close the public hearing: SECOND Karen Olson; Unanimously APPROVED

MOTION: The site plan final approval is based the following:

- The following plans referred to collectively below as the "Site Plan" for amendment of the site plan approval for a new single family residence.

- Site Plan for a new single family residence, Brookfield Nyack LLC, prepared by Jay A. Greenwell, PLS, LLC dated January 20, 2020 last revised August 20, 2020, Job #2503
- Architectural Plan for new single family residence, (Pages 1-8 consisting of A001; A100-A104; A400-A401) Marc & Sari Mallow, prepared by Elizabeth Parks, dated June 24, 2020 last revised August 24, 2020.
- Revegetation Plan for new single family residence, (Page RP-101) Mallow Residence, prepared by Yost Design Landscape Architecture, dated August 3, 2020.

The BOARD approved the Applicant's application for site plan approval to construct a new residence on the Property subject to the following conditions:

1. Under the provisions of SEQR this is a Type II action requiring no further review.
2. The Applicant shall address to the reasonable satisfaction of the Village Engineer the following comments set forth in the memorandum from the Village Engineer to the Planning Board dated September 16, 2020, which are specifically set forth herein as conditions of approval, #2; #3 #4; add dates of all plans to site plan.
3. A SWPPP in the form acceptable to the Village Engineer shall be submitted.
4. A Stormwater Maintenance Agreement in the form acceptable to the Village Engineer and the Board's counsel shall be recorded in the office of the Rockland County Clerk and a copy of such agreement as recorded shall be file with the board. The applicant shall pay all applicable recording fees.
5. This final site plan approval authorizes the Applicant to undertake only the activities specifically set forth herein, in accordance with this resolution of approval and as delineated on the Site Plan endorsed by the Planning Board Chairman. Any changes or modifications to such plan require amended site plan approval from the Planning Board.
6. This approval shall be void and of no effect if a building permit for the work proposed herein is not issued within 3 years of the date of this resolution.

MOTION BY: Ellen Simpson

SECOND: Karen Olson

VOTE: Unanimously APPROVED

7:57pm: Comito Homes LLC, 205 Wanamaker Lane, County Map No. 60.13-02-94.

Said property is located in Residential Zoning District R-2.

This APPLICATION submitted to the clerk the Certificate of mail receipts of neighbor notification.

The APPLICANT was represented by Jay Greenwell, Land Surveyor and Marc Comito, property owner.

Application for amended site plan approval for revisions to the approved grading in the rear yard of an existing single family residence.

The Applicant reviewed the grading of the rear yard and the wall configuration. The best approach is to relocate the wall to the bottom of the slope on the east side. A revised landscape plan was reviewed. Six birch trees have been added to the south side of the property.

The BOARD read and reviewed the report from Dennis Letson, Village Engineer, whose comments were entered into the record as follows:

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c12, the project is a Type 2 action. No further review under SEQR is required.

Site Plan

1. Zoning

- a. No changes to zoning issues with this request.*
- 2. The request is to amend the site plan to conform to additional grading performed on the east and south areas of the site not indicated on the originally approved site plan.*
- 3. This was reviewed informally in July by the Board. At that time the proposal increased the length of the wall at the east side of the site in the original location approx. 25 feet off the east property line and extending south beyond the original limits.*
- 4. The current plan indicates the proposed wall to be 6 feet from the lot line, generally 6 to 8 feet high with additional planting at the base of the wall.*
- 5. A statement should be provided from the LA to indicate the ultimate size of proposed plantings, needed maintenance, and if the 6 foot area is adequate for mature growth and future maintenance.*
- 6. The proposed grading appears to require additional material to be added to the site. Applicant should indicate if that is the case or if the grading is balanced with no additional material to be brought to the site. This assessment should include any material excavated and replaced for the construction or backfilling of the wall; see comments below.*
- 7. The wall designs and letter from wall designer (CDP) to wall supplier have been received:*
 - a. The design plans call for borings to be performed to verify soil parameter assumptions of the design; these should be performed.*
 - b. Design plans call for geotechnical engineer to be on-site and verify other soil parameters; specify who this will be.*
 - c. The use of on-site soils shall be verified by additional soil tests as outlined in the wall design notes.*
 - d. A portion of the proposed wall requires geogrid reinforcement, which requires removal and replacement of the existing soils. Verify that the quantities of excavated soils are equal to the additional grading shown on the plan.*
 - e. The wall drain options do not appear to be feasible on the site with grades shown, show the wall drain outlets and how they will be installed so as not to impact adjacent properties.*
 - f. The wall design letter references plan prepared by Krypton Engineering, not the Greenwell plans submitted to the Board; clarify which site plan is applicable and secure confirmation letter from CDP.*
- 8. Provide information on the source of fill added to the site.*
- 9. Please indicate what the heavy line at the northwest corner of the structure designates or if it is an artifact line.*
- 10. The landscape plan still shows the planting at the northwest corner of the lot at 18 ft. on center, the Board had indicated these should be spaced closer toward the ROW line.*

The BOARD reviewed the report.

A note will be added to the plan if additional material needs to be added to the site as per comment #6.

Options 1 and 2 of the drains were removed and the pipe outlets were shown on the profile. The amount of water that gets behind the wall is minimal, the roof drains will be collected and discharged elsewhere. A river stone pad will be added to the plan.

The Chairman read the GML response from Rockland County Planning dated September 14, 2020. A mosquito control application should be submitted.

The Chairman discussed the wall that was moved to the west side, no height of the wall is noted. The wall height elevation should be defined from the top to bottom. The Applicant showed the locations of the wall and will coordinate it with the wall drawings. Mr. Comito has spoken to the neighbors and they are satisfied with the wall landscape screening that is proposed. The finishes of the wall that was approved by the ARB were reviewed. The Chairman would like to see the elevations of the wall with all the elements including, the landscaping, fence at the top and the view that the neighbors will have.

The Applicant noted that if the Chairman is proposing to have him return to the Planning Board for these items it would further delay the project that he started over a year ago. He has had delays due to COVID also. They currently have a buyer that needs to close in October and therefore asked the Board to decide on the application at this meeting.

The Village Engineer stated that although he is sympathetic to the Applicant's situation it is not the creation of this Board but the creation that the Applicant did something above and beyond the approval. The Board is trying to work with the application to prevent the removal of all the material added to the site without approval, but the Board will not be unduly rushed through that review.. The Village Engineer asked the Applicant to answers to the questions and provide the information being asked for. The alternative would be to remove all the material and go back to the original approved site plan.

The Board discussed the elevation of the pipes and drainage of the wall in detail.

A letter dated September 16, 2020 from Yost Design, the landscape architect, was read into the record regarding comment #5 on the Village Engineer report. The plant schedule will be revised to show the size of all proposed plantings 10 years from now and the maintenance that is required to maintain them. The Village Engineer said that the letter raised more questions such as it will be hard for the homeowner to get to the plantings to maintain them without going on the adjacent property.

The Applicant will try to contact the neighbors to ask them to join the virtual Zoom call to show their support of the plantings and the wall.

The Applicant noted that the fence will be a 36"H black aluminum decorative fence, that is substantially the same as what is at the house he built on Highmount. The Village Engineer shared a Google view of the fence and wall on Highmount.

The BOARD opened the public hearing and listened to comments from the public regarding the application for amended site plan approval for revisions to the approved grading in the rear yard of an existing residence.

Beth and Greg D'Auria, 203 Wanamaker Lane stated they have discussed the proposed plan with the Applicant's representative and are satisfied based on what they were told regarding the wall and the plantings that will buffer their view of the wall. The wall will be better than the water that is flowing onto their property currently.

MOTION: Member Karen Olson moved to close the public hearing: SECOND Ellen Simpson; Unanimously APPROVED

The Chairman asked the Village Engineer if action can be taken on this application tonight. The Village Engineer said with a series of conditions regarding the soil, fencing and landscaping noted he feels they could as they have seen what fence is proposed and have talked to the neighbors. Soil testing was discussed and the Village Engineer would like to know who the Geotechnical Engineer who will oversee the project. The Village Engineer suggested that the applicant speak to the precaster to see if they could use 60" ready block instead of 40" and 20" for the face of the wall.

The BOARD had no further comments at this time.

MOTION: This is a Type II action therefore no further SEQRA review is required. The site plan final approval is based the following:

- The following plans referred to collectively below as the "Site Plan" for the amended site plan approval for revisions to the approved grading in the rear yard of an existing single family residence.
 - Amended Site Plan approval for revisions to the approved grading in the rear yard for single family residence, Comito – Wanamaker LA., prepared by Jay A. Greenwell, PLS, LLC dated February 21, 2020 last revised August 11, 2020, Job #21847
 - Landscape Plan, (Page L-701) for Comito, prepared by Yost Design Landscape Architecture, dated February 26, 2019 last revised July 9, 2020.
 - Wall design, (Pages 1.00; 2.00-2.03; 4.00-4.03; 5.00-5.01; 6.00-6.01) for 205 Wanamaker Lane, prepared by Civil Design Professionals, dated August 11, 2020, Project #20-0077.

The BOARD approved the Applicant's application for site plan approval to amend the previously approved site plan approval for revisions to the approved grading in the rear yard of an existing single family residence on the Property subject to the following conditions:

1. The applicant shall address to the reasonable satisfaction of the Village Engineer, the comments of the Village Engineer in his report dated September 16, 2020 and which are specifically set forth herein as conditions of approval, #5; #6; #7a-#7f; #8; #9, remove line; #10 based on an email from the Landscape Architect dated September 16, 2020 that the plantings are now 14ft on center; details of wall drain outlets; note on site plan whether or not soil is to be removed or

if additional soil needed, and how much will be determined by the Land Surveyor on the site plan.

2. The Applicant shall comply with and satisfy items 1, 2 and 3 on the letter of the Rockland County Planning Board dated September 14, 2020.
3. Additional conditions requiring specification that must be complied with before the site plan can be signed by the Chairman and a building permit issued:
 - a. Details of the fencing on top of wall specific to the brand and model must be added to the site plan;
 - b. Revise note #23 to reference the most recent landscape plan;
 - c. Cross reference the wall design plan;
 - d. Define the top and bottom of the wall elevations on the east side, making sure to coordinate with the CDP block dimensions;
 - e. If the wall can be designed differently with 60" blocks, such configuration shall be subject to review and approval by the Village Engineer.
4. This final site plan approval authorizes the applicant to undertake only the activities specifically set forth herein, in accordance with this resolution of approval and as delineated on the final site plan endorsed by the Planning board Chairman. Any changes or modifications to such plan require amended site plan approval from the Planning Board.
5. This approval shall be void and of no effect if a building permit for the work proposed herein is not issued within 3 years of the date of this resolution.

MOTION BY: Karen Olson

SECOND: Ellen Simpson

VOTE: Unanimously APPROVED

Other Business:

The Chairman reviewed with the Board two GML referrals from the Village of Nyack.

Oak Hill Cemetery, 140 N. Highland Avenue, Nyack, NY 10960, is seeking site plan approval for an accessory building which is greater than 12 feet in height. This is for a communal mausoleum at the top of the hill.

32 Tallman Avenue, Nyack, NY 10960, is seeking site plan approval for the construction of a carport that will provide covered parking adjacent to the dwelling.

The Board had no comments and deemed both applications for local determination.

MOTION BY: Karen Olson

SECOND: Ellen Simpson

VOTE: Unanimously APPROVED

The meeting was adjourned at 9:18pm.

Respectfully submitted,
Jillana Sinnott, Secretary