

**Village of Upper Nyack
Planning Board Meeting
Wednesday, April 21, 2021, 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: Karen Olson, Cynthia Turner, Joseph Heider and Peter Zajonc. **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 April 14, 2021. 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.

The Chairman welcomed new Board Member Peter Zajonc.

7:33pm: Approval of Minutes: Member Karen Olson moved to approve the minutes from March 17, 2021 as amended; **SECOND:** Joseph Heider; unanimously APPROVED.

7:34pm: 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.

A letter from Legal Counsel, Robert Knoebel, representing the Applicant has been received to withdraw the application without prejudice. The Applicant plans to work on revised plans and will make a submission in the future.

7:36pm: Summit School, 339 North Broadway, County Map No. 60.18-01-01.
Said property is located in Residential Zoning District R-2.

A letter from Legal Counsel, Matthew Delforte, representing the Applicant has been received to ask for an adjournment to the May agenda in order to finalize its responses to the Boards' remaining questions.

MOTION: Member Karen Olson moved to continue the public hearing to the May 19, 2021 meeting; **SECOND:** Joseph Heider; Unanimously APPROVED

7:38pm: Trina Hunn and Nick Underwood, 325 North Broadway, County Map No. 60.18-01-35.

Said property is located in Residential Zoning District R-4.

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

The APPLICANT was represented by Robert Silarski, Architect and Trina Hunn and Nick Underwood, Homeowners.

The Application is before the Board for site plan approval for an addition and new deck on an existing single family residence.

The Applicant is proposing an addition towards the back, near the garage on the south side. It will be a two story addition, with a family room and a master bedroom. The existing family room will become a dining room. The current master bedroom is small, the new master bedroom will have a full master bath. The current bathroom will be relocated. There will be no change to the front of the house. The colors will match existing. A deck will be added to the new addition. This application will require a variance from the Zoning Board of Appeals for setback of the new addition.

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 617.5c11 and 12, the project is a Type 2 action. No further review under SEQR is required.

Site Plan

1. Zoning

- a. *The bulk table should indicate Side Yard South setbacks of 22.2 / 2.2 in the existing and proposed columns to recognize the garage setback.*
 - b. *There are asterisks denoting non-conforming bulk dimensions, but they are shown in the criteria column when they should be shown in the values columns.*
 - c. *It appears the proposed addition will extend the non-conforming side yard on the north side, this would require a variance.*
2. *The plan note regarding site slopes is accurate, the requirement to submit existing and proposed contours may be waived should the Board choose.*
 3. *A note should be added that all excavated material will be removed from the site.*
 4. *The silt fencing will be adequate to control erosion on this site.*
 5. *No additional comment.*

The Board discussed the bulk table, the dimensions discrepancies should be fixed. The new work and the existing work should be listed separately. Show how the height was established and refer to the drawing and elevations.

The GML reviews have not been received yet as they were sent late and will have to be reviewed when the application returns to the Planning Board.

The BOARD had no further comments at this time.

MOTION: Member Karen Olson moved to open the public hearing; **SECOND:** Cynthia Turner; Unanimously APPROVED

There were no comments from the public.

MOTION: Member Karen Olson moved to continue the public hearing to the June 16, 2021 meeting and referred the application to the Zoning Board of Appeals and the Architectural Review Board: **SECOND:** Cynthia Turner; Unanimously APPROVED

8:02pm: Stuart and Jennifer Chaitin, 617 North Broadway, County Map No. 60.10-01-09.

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 Robert Knoebel, Legal Counsel for the Applicant.

The Application is before the Board for site plan approval for structures (fencing, stone pillars and pool decking) that are accessory to an existing single family residence.

The Applicant's counsel discussed the application. The home was constructed in 2008. There are three issues they are here for – fencing, the stone pillars at the gate and the pool decking (and related coverage issues). The originally-approved site plan did not include a deck around the pool, which brings a question about the coverage limit. A variance for coverage of 27.9% where a maximum of 25% is permitted was granted previously but the as-built showed 27.4% which was approved in 2009. The Applicant does not believe that the net lot area slope deduction applies to this property because of when the lot was created. There was a Special Permit granted to permit the keeping of chickens on the Property but there are no longer chickens on the property and that permit has lapsed. The Applicant has applied to the Army Corps of Engineers, Division of Coastal Resources and the DEC for approval of the dock and received it. The Applicants' counsel stated that variances were previously at the December 17, 2013 Zoning Board of Appeals meeting as per the Village minutes for the pillars and gates.

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)

There is no additional SEQR review required for this modification.

Zoning

1. *From review of documents filed in the Rockland County Clerk's Office it appears this lot existed prior to 12/27/2004, the effective date of the slope ordinance. The lot is therefore not subject to the reductions called for in that ordinance.*
2. *The keeping of livestock requires a special permit from the ZBA.*
3. *The ZBA is required to apply special permit criteria to the review of that application, the Planning Board should provide any relevant comment to the ZBA.*
4. *Based on 1 above, the total coverage is now below the ZBA granted allowable coverage of 27.4%.*
5. *The heights of perimeter fencing are shown as 6 foot. The Pillars are over 6 feet in height and require a variance from Section 6:3. The gate height should be shown to determine if the gates should also be a part of the variance application.*

Site Plan

1. *It appears the residence is to be used as one side of the pool enclosure. A note should be added that all doors shall have door alarms installed; the note on the plan refers only to gates and fences conforming to enclosure requirements.*
2. *Mr. Wanamaker's letter of 11/9/20 indicates that no record of approvals for the dock and related construction have been provided by the applicant; these should be provided.*

The Chairman noted that the engineer report is dated incorrectly with a previous meeting date. The Village Engineer noted that was the last date he wrote a memo on this application and it should be corrected to today's date. There was a discussion about the date that the lot was created and how it effects the slope ordinance. The Chairman would like to see more information about this indicated on the Site Plan. The Village Engineer discussed the surrounding lots and the creation dates of such lots. The ZBA approval for the chicken coop according to the minutes has expired and must be applied for annually. The Village Engineer withdraws note three of his Memorandum since the Applicant has stated that it no longer keeps chickens on the Property. The heights of the pillars were discussed. The Applicant said that a variance was received for 8' pillars. The Village legal counsel noted that on the plan the actual heights are 8'6" and 8'7".

The Chairman would like to see the prior ZBA approval dates, heights of the pillars and gate, chicken coop all summed up on the site plan.

The Applicant said that they would like to install the pool fence which is stopping them from getting their final CO.

There was a discussion about the additional items that are adding to the coverage.

The Chairman requested Jay Greenwell, land surveyor for the Applicant to work with him and Village Counsel to get the site plan updated correctly. The site plan should clearly delineate the approvals history and variances granted for the property, and should clearly indicate which improvements are the subject of the approval.

The Chairman reviewed the GML responses. Clarkstown Planning deemed the application for local determination. The Rockland County Planning Board response recommends the compliance with

Mosquito Control of the Rockland County Sanitary Code. There will need to be a formal override for the incorrect map date on the GML referral form at approval of the application.

Member Joseph Heider inquired about the previous communication received from the neighbor Carl Wortendyke to the Building Inspector regarding the dock not being in compliance. The Chairman discussed what was built and what was approved. He will discuss it with the Building Inspector to clarify if they match.

The Board had no further comments at this time.

MOTION: Member Karen Olson moved to open the public hearing: **SECOND:** Joseph Heider; Unanimously APPROVED

Steve Abel, 615 North Broadway, is north of the applicant, separated by Carl Wortendyke's lot and has a concern about the noise from the floating dock. It goes up and down with the tide and the wind and makes an incredibly loud squeaking noise. It may be a maintenance issue or maybe not built to conformity, he is not sure. The noise makes the need to close his windows.

Fred Sinnott, 615 North Broadway, is west of the applicant. He has a concern with the dock being a nuisance and the topographical map prior to construction on the west side was previously a slope but is now a cliff that has become a hazard. The slope was supposed to remain and not be a cliff, the proposed and existing slope should be reviewed.

The Chairman asked the Village Engineer to see if the slope is in conformance of what was approved.

There was a discussion of the fencing along the property. The Applicant would like to install fencing so he can open the pool. The Village Engineer questioned what the height of the fence was going to be. The pool fencing was discussed. The applicant should submit for a permit from the Building Inspector.

The Applicant will speak to Jay Greenwell regarding the pillars, pool decking and chicken coop and submit a revised site plan.

MOTION: Member Karen Olson moved to continue the public hearing to the May 19, 2021 meeting: **SECOND:** Joseph Heider; Unanimously APPROVED

There was no other business.

The meeting was adjourned at 9:02pm.

Respectfully submitted,
Jillana Sinnott, Secretary