

**Village of Upper Nyack  
Planning Board Meeting  
Wednesday, July 21, 2021, 7:30pm**

***Minutes***

A meeting of the Planning Board of the Village of Upper Nyack was held on the above date and called to order at **7:35pm** 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., Village Consulting Attorney; Jillana Sinnott and Janet Guerra, Board Secretaries.

**7:35pm:** The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on July 14, 2021.

**7:36 pm: Approval of Minutes:** Member Karen Olson moved to approve the minutes from July 7, 2021 as amended; **SECOND:** Cynthia Turner; unanimously APPROVED.

**7:40 pm: Stuart and Jennifer Chaitin, 617 North Broadway, County Map No. 60.10-01-09.**  
*Continuation from July 7, 2021.*

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

The APPLICANT was represented by Rob Knoebel, Esq., Legal Counsel; and Stuart Chaitin, the Homeowner.

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

Rob Knoebel indicated there were updated plans from Jay Greenwall before the Board after their site visit including updated topo photos and the integration of the application for the dock. He requested to progress to ZBA. He expressed his opinion that the slope ordinance does not apply.

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. Per prior review, as there are no chickens being kept ZBA approval or re-approval is not required at this time. Future use of the coop will require a new ZBA approval.*

3. *Based on 1 above, the total coverage is now below the ZBA granted allowable coverage of 27.4%.*
4. *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 is added and is also over 6 feet, it should also be a part of the variance application.*
5. *The plan titled "Topo Exhibit for West Portion" shows that additional slope areas have been altered. This will require a new variance for disturbance of slopes over 40%*

#### 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. *ACoE permit for the dock and related construction have been provided by the applicant. Was NYSDEC permit also received?*

Dennis Letson, Village Engineer, explained that #5 was reviewed by Village Consulting Counsel as per Article 3. Language was created so a non-conforming lot would not be created. It applies to any and all site plans created. Rob Knoebel indicated that they will include this in their variance relief. Dennis Letson explained that they can always ask for interpretation from the ZBA.

Member Joseph Heider asked who checks for compliance with the permit and Dennis Letson answered that the Building Department checks for compliance. Mr. Letson further commented that the Building Department would not issue a CO due to the differences from the site plan to the completed work.

Chairman William Pfaff indicated that the 2008 site plan established a limit of disturbance line and that limit of disturbance line was extended by the applicant.

Member Karen Olson asked a question about the existing pillars/gate being 8'6" versus the 8-foot variance given. Member Cynthia Turner expressed that the ZBA may have guessed it was 8 feet and didn't have actual measurement details. Member Cynthia Turner asked a question about whether the posts were in place at the time of the ZBA meeting. Member Karen Olsen asked to get clarification of the actual height. Rob Knoebel indicated that he will explain this in the narrative to the ZBA. NYSDEC permit was approved and has been submitted. Member Joe Heider indicated—DEC permit-- the dock is a different dock; not the current dock. Dennis Letson stated that the Building Inspector gives the final approval for CO.

#### Public Comments:

Fred Sinnott, 615 North Broadway. Mr. Sinnott discussed the narrative he presented to the Board regarding the western slope that abuts his property and Chairman William Pfaff asked the secretary to enter same into the file. Mr. Sinnott expressed that the east side of his property is affected by the subject slope. He referred to signed and sealed plans from May 2006 to June 2008—specifically the southeast corner of the property and the differences between them. Mr. Sinnott stated that he has lost 6 feet of property.

Mr. Chaitin stated that there is garbage “coming out of the hill”.

Mr. Knoebel said the hill is not stable.

Chairman William Pfaff brought up the limit of disturbance line and asked why it changed and why the slope was re-graded.

Mr. Knoebel stated that they didn’t do anything to change the slope and no re-grading was done. He stated that it isn’t a stable slope and that the rock wall was intended to stabilize it.

Mr. Letson explained that the “wall” is not a wall; but a rock outcrop which is a natural rock formation that was scaled back and exposed between 2008 until 2021 which altered the slope.

Mr. Knoebel stated that there is no disagreement that the slope has changed.

Chairman William Pfaff asked Mr. Letson about the limited disturbance line. The Chairman asked if, based upon observations and conditions, the erosion conditions would need to be addressed and whether there would need to be an application for a variance to the limit of disturbance line.

Mr. Letson stated that the grading increased and the subject slope has doubled in steepness by pushing the toe back. The slope is now 70%+/- and should be stabilized with viable deep rooting ground cover or terracing as the slope is subject to continued erosion unless the soil is stabilized.

Chairman William Pfaff inquired whether the deer fence defined the Chaitin property line. The Applicant stated that it is 1 foot inside the property line.

Mr. Knoeble indicated that they would be willing to place some kind of material only on the Chaitin property.

Mr. Sinnott discussed the 12” maple tree which is a 10-foot drop to the base of the tree.

The Board had no further comments.

Chairman Bill Pfaff further discussed the limit of disturbance line; the gates and pillars and the need for a stabilization plan. Mr. Pfaff also expressed that Mr. Chaitin should work in conjunction with the neighbor.

Mr. Knoebel expressed that they want to wrap this matter up and inquired whether this could be a condition for the final CO for the house.

Chairman William Pfaff asked Mr. Letson if he would be comfortable with this.

Mr. Letson expressed that he wants to see the stabilization plan and suggested that this needs professional evaluation and remediation and that a wall with back fill may be necessary.

Chairman William Pfaff discussed referring the matter to the ZBA for variances and then a return to the Planning Board with a slope stabilization plan.

**MOTION:** Member Karen Olson moved to continue the public hearing to the September 22, 2021 meeting and refer the application to the ZBA September 21, 2021 meeting: **SECOND:** Cynthia Turner; Unanimously APPROVED

**8:23 pm: Brett and Gemini Watanabe, 204 Hilltop Drive, County Map No. 60.09-01-38.**

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

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

The APPLICANT was represented by Gemini Watanabe, Homeowner.

This is an application is before the Board for site plan approval for a rear deck on a Property improved with an existing single-family residence.

Gemini Watanabe, the Applicant, explained that they wish to build this rear deck from the dining room on the north side for a view of the river. She added that they have a new survey and there were discrepancies to the bulk table. The corrected version of the bulk table was submitted to the Board.

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. *Suggest that the Bliss Ln front yard be measured to the ROW line.*
- b. *Several entries in the bulk table indicate different existing and proposed values, but net change is indicated as "No Change". Please verify or explain the differences.*
- c. *Minimum livable floor area entry appears to be a typo "1250" should be "1550".*
- d. *Total lot coverage (7.9%) appears off when compared to principle building coverage (7.2%). Verify that coverage calculation includes all required elements.*

- e. *GIS mapping shows that TL 60.09-01-35 extends along the west boundary of this lot; it appears this is not a corner lot.*
- f. *While the above will require changes to the bulk table, it appears the application is conforming.*
2. *As the proposed work is minimal, the Board may waive the submittal of topography, proposed grading, tree and utility locations.*
3. *Max. structure height should be dimensioned on the building elevations.*
4. *Silt fence is adequate for the minimal disturbance.*

Dennis Letson, Village Engineer, commented that Bliss Lane is actually the frontage of the house and there is no frontage on Hilltop.

Chairman William Pfaff asked that the building height be referenced on the bulk table.

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

There were no comments from the public.

**MOTION:** Member Karen Olson moved to close the public hearing; **SECOND:** Member Cynthia Tuner; Unanimously APPROVED.

The BOARD approved the application for Site Plan approval for a rear deck on an existing single-family residence on the Property subject to the following conditions:

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

- The following plans referred to collectively below as the “Site Plan”.
  - The Watanabe Residence, Site Plan, (Drawing A-0), by Maren Robertson, AIA, dated May 25, 2021, last revised May 26, 2021.
1. Under the provision of SEQR this is a Type II action requiring no further review.
  2. The applicant shall address to the reasonable satisfaction comments of the Village Engineer in his report dated July 21, 2021, and which are specifically set forth herein as conditions of approval. Specifically, items #1e and #3.
  3. The Site Plan shall be revised to include an entry in the revision note section to indicate the date that the plan is submitted for Planning Board signature. The description for the revision date note shall read “For PB Signature.”
  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:** Joseph Heider

**SECOND:** Karen Olson

**VOTE:** Unanimously APPROVED

**8:35 pm: Brookfield Nyack, LLC, 519 North Midland Avenue, County Map No. 60.09-03-48.**

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

This APPLICATION submitted to the clerk the Certificate of mail receipts of neighbor notification. The APPLICANT was represented by Elizabeth Parks, Architect and Sari Mallow, the Homeowner.

This is an application for site plan approval for a new single-family residence.

Elizabeth Parks explained that the revisions to the site plan are due to the Applicant's desire to significantly improve the thermal performance of the house. They have increased the wall thickness to 12.5" which has increased the footprint. The north portion of the garage is a little lower. The front porch is larger to enjoy the view. The siding has been revised to more traditional cedar shakes. The driveway is smaller which results in a slight increase in the pervious surface. There are four drywells. There are no issues with stormwater—a new stormwater agreement should be filed with the County Clerk's office. The woodburning fireplace was deleted so there is no chimney.

Chairman William Pfaff inquired whether the geothermal wells would be under the pavement. Elizabeth Parks noted that they are now; but suggested that it could end up being gravel.

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, the project is a Type 2 action. No further review under SEQR is required.*

**Site Plan**

**5. Zoning**

- a. *The proposed site plan is compliant with zoning.*

**6. Infiltration test requirement is indicated in note 11.**

**7. A stormwater maintenance agreement will be required for the site.**

8. *No additional comments on the revised site plan.*

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

There were no comments from the public.

**MOTION:** Member Karen Olson moved to continue the public hearing to the September 22, 2021 meeting and refers the application to the ARB meeting on September 15, 2021; **SECOND:** Member Cynthia Tuner; Unanimously APPROVED.

**8:46 pm: Lewis Maresca, 505 Spook Hollow Road, County Map No. 60.09-02-25.**

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

This APPLICATION submitted to the clerk the Certificate of mail receipts of neighbor notification. The APPLICANT was represented by Kier Levesque, Architect.

This application is before the Board for site plan approval for an addition on a Property improved with an existing single-family residence.

Mr. Levesque stated that the application was approved by the ZBA and the ARB. He explained that the roof line was being straightened.

Member Joseph Heider asked if this plan reflected the recommendations of the ARB. Mr. Levesque stated that there were no recommendations from the ARB.

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 617.5(c)(9), the project is a Type 2 action. No further review under SEQR is required.*

**Site Plan**

1. *This application has been previously reviewed several times.*
2. *Zoning*
  - a. *Variances have been granted as needed.*
  - b. *Verify rear yard setback of 59.833 shown on bulk table, plan shows 69”.*
3. *My previous comments on this application have been addressed.*

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

There were no comments from the public.

**MOTION:** Member Karen Olson moved to close the public hearing; **SECOND:** Member Cynthia Tuner; Unanimously APPROVED.

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

- The following plans referred to collectively below as the “Site Plan”.
- The Maresca Site Plan, (Drawings A1-A3), by Kier Levesque, RA, dated June 28, 2018, last revised June 23, 2021.

The BOARD approved the application for Site Plan approval for an addition on an existing single-family residence on the Property subject to the following conditions:

1. Under the provision of SEQR this is a Type II action requiring no further review.
2. The applicant shall address to the reasonable satisfaction comments of the Village Engineer in his report dated July 21, 2021. Specifically, item #2b.
3. The Applicant shall comply with the conditions and requirements set forth in the letter from the Architectural Review Board to the Planning Board submitted on this application June 14, 2021, which requires compliance with the architectural plans and finish schedule referenced in such letter.
4. This approval is subject to the applicant seeking and obtaining (1) a side setback variance from the Zoning Board of Appeals and (2) review and approval from the Architectural Board of Review. If such approvals are not granted, the applicant shall return to the Planning Board for review. If approved the applicant may apply for a building permit.
5. Prior to the issuance of a Certificate of Occupancy the Applicant shall provide: An as-built survey signed and sealed by a licensed professional.
6. The Site Plan shall be revised to include an entry in the revision note section to indicate the date that the plan is submitted for Planning Board signature. The description for the revision date note shall read “For PB Signature.”
7. 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.
8. 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:** Joseph Heider  
**VOTE:** Unanimously APPROVED

**8:56 pm: Paul and Melissa Curley, 211 Kuyper Drive, County Map No. 60.05-02-33.**

Said property is located in Residential Zoning District R-1.

This APPLICATION submitted to the clerk the Certificate of mail receipts of neighbor notification.  
The APPLICANT was represented by Paul Curley, the Homeowner.

This application is before the Board for site plan approval for an in-ground pool on a Property improved with an existing single-family residence.

The Applicant, Paul Curley, stated that he was granted a 15-foot rear variance from the ZBA. ARB was not required due to the amended local law 6.

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
  - b. Variance granted.
  - c. Bulk table – change “Variance Required” to “Variance Granted” and add date.
  - d. The project is compliant.
2. The drainage report referred to in the application has been received and is acceptable.
3. Infiltration test will be required to verify infiltration rate.
4. A stormwater maintenance agreement will be required for the site.
5. Doors of the structure will require door alarms to be considered a part of the enclosure.
6. Please add note that all excavated material is to be removed from the site; this has been added to the project narrative.
7. In the drywell detail, one referenced to 4 ft deep was not revised to 6 ft deep, please correct.
8. Previous comments have been addressed.

There were no other comments from the Board.

There were no comments from the public.

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

The BOARD approved the application for Site Plan approval for an inground pool on an existing single-family residence on the Property subject to the following conditions:

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

- The following plans referred to collectively below as the “Site Plan”.
  - The Curley Site Plan, (Drawing by Jay Greenwell, PLS, dated October 21, 2020, last revised May 24, 2021.
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 comments of the Village Engineer in his report dated July 21, 2021 and which are specifically set forth herein as conditions of approval. Specifically, #1b.
  3. Comments from other Agencies commenting on this plan are herein incorporated as conditions of approval. (Rockland County Planning, April 13, 2021 (mosquito control); Town of Clarkstown, March 29, 2021.)

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 filed with the Board. The applicant shall pay all applicable recording fees.

4. This approval is subject to the applicant seeking and obtaining a rear lot line variance from the Zoning Board of Appeals on June 15, 2021. If such approvals are not granted, the applicant shall return to the Planning Board for review. If approved the applicant may apply for a building permit.
5. The Site Plan shall be revised to include an entry in the revision note section to indicate the date that the plan is submitted for Planning Board signature. The description for the revision date note shall read “For PB Signature.”
6. 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.
7. 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:** Joseph Heider  
**SECOND:** Karen Olson  
**VOTE:** Unanimously APPROVED

**Other Business:**

Discussion among Board members with Board Secretary about September's meeting date being re-scheduled as September 15<sup>th</sup> is Yom Kippur. Agreed upon new meeting date: September 22, 2021.

Member Joseph Heider asked for clarification on what the Board was approving for Applicant Chaitin. Chairman William Pfaff explained that a limit of disturbance line was established and the Applicant went beyond that line. Dennis Letson, Village Engineer, stated that the Applicant was going to the ZBA for a variance as the disturbance of the line created a slope greater than 40%. He further stated that the Applicant was in violation of the site plan and the Zoning Law.

Village Consulting Attorney, Noelle Wolfson, reiterated that the Applicant is not in compliance with the site plan as the disturbance of the slope was in excess of 40%.

Member Peter Zajonc announced his departure from the Board and thanked the Board for the experience. The Board, in kind, thanked Mr. Zajonc for his service.

**MOTION:** Member Peter Zajonc moved to close the meeting.  
**SECOND:** Member Joseph Heider  
Unanimously APPROVED.

The meeting was adjourned at 9:16pm.

Respectfully submitted,  
Janet Guerra, Secretary