

**Village of Upper Nyack
Planning Board Meeting
Wednesday, January 19, 2022, 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 7:39 pm by the Chairman, William Pfaff.

Other Board members present: Karen Olson, Cynthia Turner, Joe Heider, and Pat Esgate.

Also present: Dennis Letson, Village Engineer; Noelle Wolfson, Esq., Consulting Village Attorney; Janet Guerra, Board Secretary

7:39 pm. The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on January 12, 2022.

7:42 pm. Motion for approval of minutes from the November 17, 2021 meeting.

First: Karen Olson

Second: Joseph Heider

Vote: 4-0, 1 absent, APPROVED.

7:42 pm **Stuart and Jennifer Chaitin, 617 North Broadway, County Map No. 60.10-01-09.**
Continuation from July 21, 2021. Application for site plan approval for accessory structures (fencing, stone pillars and pool decking) on property improved with an existing single-family residence located in the Residence R-2 District.

Motion to adjourn to February 23, 2022 meeting. Applicant to re-send notices to neighbors.

Motion: Joseph Heider

Second: Karen Olson

Vote: 4-0, 1 absent, APPROVED.

7:44 pm **Steven and Lisa Schmittgall, 10 Riverton Drive, County Map No. 60.13-02-81.15.**
Continuation from October 27, 2021. Application for site plan approval for an after the fact patio, pavilion and retaining walls on property improved with an existing single-family residence located in the Office Business (OB) District.

Represented by: Ryan Nasher, Engineer, Atzl, Zigler and Nasher.

The improvements include a deck, patio with walkway, planters landscaping and pavilion. This is our second Planning Board meeting. We were last here in October when the Planning Board referred us to the Zoning Board of Appeals. The ZBA granted the variance. We had comment from Rockland County Planning and received the Village Engineer's comments. All have been addressed. The stormwater agreement is done. We would like final approval. If there are any questions, I'm here to answer questions.

Chairman William Pfaff asked Dennis Letson, Village Engineer, if there were any more comments. Dennis Letson said there were not.

The Chairman read the Village Engineer's report into the record:

State Environmental Quality Review (SEQR)

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

The application is for after the fact legalization of existing construction.

Site Plan

1. Zoning
 - a. The needed variance has been secured, the project is now conforming.
2. The Village's standard stormwater maintenance agreement should be executed for the site, the checklist included as appendix A in the stormwater report and the final site plan will be the attachments to the agreement.

Chairman William Pfaff stated that he had some questions about the site plan to clarify and asked Ryan Nasher to share his screen. The Chairman asked about the southwest corner of the site plan, specifically the stone swale going to a catch basin indicated by a dotted line. The Chairman asked whether that is piped drainage or just indicating the center line of the stone swale. The Chairman also asked about the other dotted line and whether it was the extent of the conservation easement.

Mr. Nasher indicated that it did look like the delineation for the boundary for the conservation easement.

The Chairman asked if he could amend the site plan and clarify with an arrow and a note. Mr. Nasher agreed to do that and also said he would reach out to the contractor to clarify whether that is a swale or piping and will amend the plan to reflect that so it's more specific.

Chairman William Pfaff said he had one other question about the lot development chart. He asked if there was there a change in the development coverage. He questioned whether the existing development coverage was 35% or was it 34.7%.

Mr. Nasher explained that they used "reverse engineering" because the work has already been done and they rounded up from 34.7% to 35%.

Dennis Letson, Village Engineer, directed that the indication of 35% be removed as the development coverage is 34.7%. Mr. Nasher agreed.

Chairman William Pfaff indicated that those were the only comments he needed clarification on and questioned whether there were any other comments from the Board members. There were no other comments.

Motion to close the public hearing.

First: Karen Olson

Second: Joseph Heider

Vote: 4-0, 1 absent, APPROVED.

Motion to approve the site plan.

I move to approve this Site Plan (Stephen and Lisa Schmittgall, Project Number 2838, Atzl, Nasher & Zigler, July 21, 2021, revised December 22, 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 January 19, 2022 and which are specifically set forth herein as conditions of approval. Number 2: The Village's standard stormwater maintenance agreement should be executed for the site, the checklist included as appendix A in the stormwater report and the final site plan will be the attachments to the agreement. In addition, the Applicant shall clarify if it's a swale or a pipe running on property; to call out the conservation easement on the plan; and to remove the 35% under the existing development coverage and just reflect the square footage of 5408.
3. Comments in the Rockland County Planning letter dated October 20, 2021 are herein incorporated as conditions of approval.
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 filed with the Board. The applicant shall pay all applicable recording fees.
5. The site plan has already received Zoning Board of Appeals approval on December 21, 2021.
6. Prior to the issuance of a Certificate of Occupancy the Applicant shall provide: (1) An as-built survey [including topographical information, if applicable] signed and sealed by a licensed professional; (2) a certification signed and sealed by a landscape architect or other qualified professional certifying that all landscaping shown on the Site Plan was installed in compliance with the requirements of the Site Plan.
7. 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."

8. 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.
9. 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.

First: Karen Olson

Second: Pat Esgate

Vote: 4-0, 1 absent, APPROVED.

Member Karen Olsen noted that there was an error in the agenda regarding the Bouzakis application. It is actually a continuation from the November 17, 2021 meeting; therefore, the public hearing is still open.

8:04 pm Kristi and Paul Bouzakis, 600 Palmer Drive, County Map No. 60.09-01-04.

Application for site plan approval for a semi-inground pool and fence on property improved with an existing single-family residence located in the Residence R-3 District.

The application was represented by Jordan Bari from Westrock Pools.

Mr. Bari explained that the Board wanted several revisions and questions answered from the last meeting. Mr. Bari noted the changes made: the bulk table to be adjusted to the deck as opposed to the house. It shows as 4.8 feet off the deck to the back of the pool. The Board also wanted clarification on the thickness of the finished wall surrounding the pool and the buttress which is shown in the pool cross section. It shows the 12 feet off the back side. It also shows the distance of the patio in relation to how far down the width of the pool will be going, which is 4.3 feet. R1 was changed to R3. The scale is larger. The pool is now represented as 12 x 24 and shows spot elevations. The plan also shows the slot drain at the back side of the patio at 274.9; and the elevation of the pool will be at 280 which is quite a drop and there will be adequate slope away to maintain proper flow of water. The slot drain is now shown and surrounds the perimeter of the patio. The infiltration rate information has been calculated and demonstrated on the table. And, portions of existing stone that will be removed is indicated as well. To answer the Boards' question, the patio and deck will not be overlapping, And, the revised plan shows that the ramp will be removed.

The Chairman read the Village Engineer's report into the record:

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:

The project is compliant with the R-3 zoning requirements.

2 Provide revised project application per Mr. Gdanski's comment response.

3. Infiltration test shall be performed to verify the assumed design infiltration rate.

4. A stormwater maintenance agreement shall be executed for the site.

Chairman William Pfaff noted that he had some comments; but asked Dennis Letson, Village Engineer, if he had any comments.

Mr. Letson commented that the Applicant's need a new project application with Paul Gdanski as Engineer of record, not Mr. Celentano.

Chairman William Pfaff shared his screen and had some comments. He stated that the Board asked for larger drawings and now it's 1"=10 feet. He suggested that Mr. Gdanski appear next time. He commented that there are a lot of confusing things about the site plan.

The Chairman continued that, one of the more germane things about this application is the slot drain. Mr. Gdanski's written response indicates that the slot drain is continuous under the deck. It needs to be shown clearly on the site plan. The site plan should show what is being built and what is being removed. Site improvements is the main thing the board is reviewing. The setback dimension of the pool is buried. This has to be cleaned up. The drawing needs to be clear. Notes need to be used so that it's clear. Saying that the stone wall is, of course, going to be removed wherever we build the pool is not a way to show it on a drawing. The Chairman explained the extensive elevation and grading issues on the plan as well. Further, he asked Dennis Letson if a protective fence was required. Mr. Letson replied in the affirmative.

The Chairman acknowledged that he does see a note that there will be a property fence with self-closer per code; but asked if the plan can show where the gate is and what size it is.

The Chairman continued that he would like a lot more clarity on the plan. As for the relocation of the shed, generally graphically you show things being removed by a dotted line. We need to see where it's going.

The Chairman commented that it doesn't take much; but there needs to be clarity so that the Board can really see what's going on. We have had to make too many assumptions and we don't want to make assumptions. The drawing should stand on its own and be clear.

Dennis Letson asked Jordan Bari to have Paul Gdanski call him to discuss how the drain is going to be constructed around the perimeter of the pool. Construction details need to be ironed out.

Member Karen Olson stated that there is a comment that says "pavers" right at the end of the wooden ramp that is going to be removed. Is it just a square of pavers that are they going to live there by themselves or are they coming out? Ms. Olson would like to see a picture of what the

rear of the house looks like now and then a rendering of what it's going to look like when it's finished.

The Chairman agreed that photographs and some kind of clear drawing would be helpful as Karen suggested.

The Chairman asked if any other board members had comments; and there were none.

Dennis Letson, Village Engineer, shared his screen and explained some more details about what is currently there.

The Chairman thanked Dennis Letson, Village Engineer, and said that it was helpful to see that satellite view.

Chairman Pfaff stated that the public hearing is still open as this is a continuation and asked if there were any members of the public wishing to speak; and there were none.

Member Karen Olson moved to continue the public hearing to the February 23, 2022 meeting with re-submissions being due February 14th.

First: Karen Olson

Second: Joseph Heider

Vote: 4-0, 1 absent, APPROVED.

Chairman William Pfaff addressed Jordan Bari and said that if there were any questions to please contact Janet Guerra, Board Secretary, or the Village Engineer, directly.

8:32 pm Lewis Maresca, 505 Spook Hollow Road, County Map No. 60.09-02-25.

Application for site plan approval for a semi-inground pool on property improved with an existing single-family residence located in the Residence R-4 District.

Chairman William Pfaff mentioned he didn't see the property posted and asked Janet Guerra, Board Secretary, if it had been publicly noticed. She responded that the affidavit and certificates of mailing had been received by Village Hall.

The application was represented by: Kier Levesque, R.A.

Mr. Levesque stated that he was asked to make this presentation for this partially in-ground swimming pool and that it did require a side-yard variance; and that the application was developed and designed by Paul Gdanski. He further stated that he did not participate in the application; but Mr. Maresca, the Applicant, asked him to make the presentation.

Mr. Levesque continued that the site plan shows the pool location and the trampoline. The pool location is being determined by the fact that the trampoline needs flat ground. That is pushing the pool a little closer to the rear setback and to the side setback where 25 feet is required, side yard is 12 feet and the rear yard is 12.3 feet.

The bulk table indicates coverage and the need for variances for the setbacks. The coverage is well within what is required for the zone, so there is no variance needed for that.

Storm water mitigation and storm water controls are shown on the plan.

The Chairman read the Village Engineer's report into the record:

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5(c)(12), the project is a Type 2 action. No further review under SEQR is required.

Site Plan

1. Zoning

a. Variances for side and rear setback required as noted in the bulk table.

2. Pool plans refer to in-ground pool, site plan refers to semi on ground pool, please coordinate and clarify.

3. Proposed equipment should be specified.

Chairman William Pfaff asked Mr. Levesque for clarification that this is a semi-inground pool and Mr. Levesque confirmed.

The Chairman asked for clarification on #3. Dennis Letson, Village Engineer, said he wants to know how the equipment bed is going to be set up and what equipment is going to be on it.

Chairman William Pfaff shared his screen and addressed Kier Levesque and said that when the Board looks at the site plan they tried to reconcile with the previously approved site plan for this property. He continued that some things need to be coordinated with the plan submitted here.

-Current plan shows a one-story house, and it is no longer a one-story house.

-Current plan does not show where the 8x10 shed is being relocated to.

The Applicant, Mr. Maresca, addressed the Board and said that the Board asked him to move that shed and he would rather take it apart than move it to the back in the middle because there is a treehouse there and the backyard would look too busy that way.

Mr. Maresca continued that this is an above the ground pool –digging only 24 inches--and in most places, he would not have to get a permit.

Mr. Maresca continued that he saw one of his neighbors on the call. He explained a drainage issue not related to this application.

Mr. Maresca continued that he has a drainage issue which affects his neighbor, not related to this permit. He explained that he hired a drainage contractor, Michael Naclerio, to remedy water coming into his basement. The contractor told Mr. Maresca the water would dump out onto the rocks in front of the side yard fence; and then halfway through the job, he said it may go behind the fence.

Mr. Maresca stated that he wants to get everything done together. He acknowledged that this water should not be dumping onto her property. He said that was more important to him. He

stated that his neighbor is under the impression that he has an outdoor shower and that is where the water is coming from; but it is coming from the gutters.

Mr. Maresca asked the Board to ‘put everything in a list so I can do the right thing and get this done.’

Chairman William Pfaff explained that the current plan, which he was sharing on his screen, reflects what is already approved. He stated that the Board looks at the plan for anything going forward. The pool application, for which the current application is purported to be, has some discrepancies. He asked Dennis Letson, Village Engineer, if he had any comment on the drainage issue; and he stated to Mr. Maresca that if he wanted this application to include some drainage, that should be shown on the plan.

Dennis Letson commented that if there is a drainage issue, Mr. Maresca needs a contractor to address that in the overall scheme of things. He stated that he would be more than happy to come out and see and offer some suggestions. He suggested that Mr. Maresca address the drainage issue before he puts in a pool, because a pool would end up making things worse. He suggested to deal with the drainage issue and then decide what to add to the property. Mr. Letson continued that the Applicant mentioned he was going to put pavers around the pool; but it is not shown on the plan. He stated that this is an additional imperious surface that needs to be dealt with.

Chairman William Pfaff stated that for the application before the Board, (a) variance(s) would be required. He continued that, there are serious inconsistencies so the Planning Board is not passing this on to any other Board at this time.

Member Karen Olson requested that when the plans are re-done, pictures of the neighbors houses in relation to this property be included.

Chairman Pfaff agreed that that would be germane.

Member Karen Olson commented that there is no screening around the pool and no screening around the equipment pad.

Dennis Letson, Village Engineer, addressed Ms. Olson and said there is a six-foot vinyl fence all around the property; but that the height should be indicated on the plan.

The Chairman asked if there were any other comments from the Board. There were none.

Chairman William Pfaff said that he’d like to get a sense where they would be going with the application and asked if they were going to continue back to the board for site plan approval.

The Applicant, Mr. Maresca said yes; and asked to hire Dennis Letson.

Mr. Letson said that would be a conflict of interest with his position as Village Engineer; but said he could give the Applicant several names.

Mr. Maresca said he would have like to hire Kier Levesque; but said “they said I have to use Paul [Gdanski]”

The representative from Westrock, Jordan Bari, said that it’s suggested to use Paul [Gdanski]; but you don’t have to.

Member Karen Olson moved to open the public hearing.

First: Karen Olson

Second: Joseph Heider

Vote: 4-0, 1 absent, APPROVED.

Comments from the Public:

Name: Jason Schlick

Address: southeast of Maresca's property: 504 Hudsonview Road

Mr. Schlick said he has no resistance or issues with the pool going in. He was just curious were the pool was going.

Mr. Schlick continued that he did have concerns with the drainage issue. There was a pipe run almost to my property and my neighbors. Grey soapy water was running into her property and down the property line between the two of us and it has been a past concern. It does seem to have been fixed.

Mr. Schlick continued that there is a sink hole forming. He said he thought it was an animal; but he had it filled in with rocks and soil and it formed again. He said he is happy to work with Mr. Maresca. He would discuss an easement; but hasn't heard back from Mr. Maresca. Mr. Schlick said he would like Mr. Maresca to assume liability if he's running pipes from his property to my property assuming it meets spec and code and it is draining where it is supposed to. He suggested Mr. Maresca stop by anytime.

Mr. Schlick addressed Dennis Letson and said he was going to stop by town hall about the sink hole.

Dennis Letson, Village Engineer, shared his screen and said the three neighbors could get together and work it out. He asked if any trees had been taken down.

Mr. Schlick said that there were no trees removed; but there is a dead tree on that side of the property coming down in the spring.

Mr. Letson said that sometimes dead trees can cause sinkholes to form, sometimes 20-30 years later.

Mr. Schlick said the tree died last spring. He said Ms. Riley had a tree come down last winter in one of the storms.

Mr. Maresca said he thinks the tree coming down was caused by the drainage.

The Chairman asked if there were any other members of the public who wanted to speak. There were not.

Member Karen Olson stated that the two pool drawings state that they are free form inground pool kits.

Jordan Bari stated that the pool Mr. Maresca purchased from Westrock is a semi inground pool.

Chairman William Pfaff reiterated that the Board needs elevations that are clearly marked; any paved area needs to be shown. The Chairman continued that the plan has to be exactly coordinated with the last approved site plan that this Board approved.

Chairman William Pfaff asked if there were any other questions from the Applicant.

Jordan Bari said he would call Mr. Maresca tomorrow and get this nailed down.

Member Karen Olson asked if the revised plans could be done by the re-submission deadline of February 14.

Mr. Maresca said he understood the deadline and would start working on everything 'tomorrow'.

Karen Olson moved to adjourn the application to the February 23, 2022 meeting.

First: Karen Olson

Second: Joseph Heider

Vote: 4-0, 1 absent, APPROVED.

Other Business:

GML review for subdivision of Pagano property at 15 Tallman Avenue.

Member Karen Olson asked if Dennis Letson could bring it up on the map and share his screen.

Dennis Letson, Village Engineer, shared his screen and stated that in his opinion this is a local determination response.

Chairman William Pfaff stated that if they subdivide, it looks like they would be consistent with the other lots—at least on that side of the street.

Dennis Letson stated that it may be a little smaller; but this is currently a significantly oversized lot.

Member Joseph Heider asked what would concern the Village of Upper Nyack.

Dennis Letson replied that Nyack sent this to the Board because it is within 500 of the adjacent municipality.

Member Joseph Heider asked if it could be something like drainage.

Dennis Letson replied that if it was sloped or tied into our sewer system, or a multi-family dwelling and would add traffic, there could be issues you'd comment on and the land use boards in the Village of Nyack would have to take that into consideration.

Chairman Pfaff said that it appears that subdividing this lot would be generally consistent with the surrounding residential development. He asked Dennis Letson if there was anything the Board was not considering.

Dennis Letson replied that there was nothing he could see.

Chairman William Pfaff asked for a motion that this board determined that this is subject to local determination.

First: Joseph Heider

Second: Karen Olson

Vote: 4-0, 1 absent, APPROVED.

Member Karen Olson moved to close the meeting.

First: Karen Olson

Second: Joseph Heider

Vote: 4-0, 1 absent, APPROVED.

The meeting was adjourned at 9:16pm

Respectfully submitted,

Janet Guerra

Board Secretary