

**Village of Upper Nyack Planning Board Meeting  
Wednesday, November 15, 2023**

**MINUTES**

A meeting of the Planning Board of the Village of Upper Nyack was held on the above date and called to order at 7:31 p.m. by the Chairman, William Pfaff.

**Other Board members present:** Karen Olson, Joseph Heider, Ellen Simpson and Zara Crowley

**Also present:** Dennis Letson, P.E., Village Engineer/Zoning Inspector; Janet Guerra, Board Secretary; and Noelle Wolfson, Esq., Consulting Attorney.

**Applications:**

1. Gregory Fisher for NBroadway LLC and 603 North Broadway LLC, County Map 60.10-01-08 and 60.10-01-10. Continuation from July 26, 2023. Application for minor subdivision approval for a merger between two adjacent lots. R-30 Zoning District and Hudson Riverfront Overlay District
2. James Bumgardner, 515 North Midland Avenue, County Map 60.13-03-01.01. Application for site plan approval for a ground mount solar installation on property improved with an existing single-family residence located in the Residence R-20 Zoning District. ADJOURNED TO DECEMBER.
3. John and Allison Rohlwing, 23 West End Road, County Map 60.17-03-04. Application for site plan approval of replacement of front porch on property improved with an existing single-family residence located in the Residence R-10 Zoning District
4. Eric Carter, 503 North Broadway, County Map 60.14-01-06. Application for site plan approval for reconstruction of seawall, install a fixed timber pier, gangway and floating dock on property improved with an existing single-family residence located in the Residence R-30 and Hudson Riverfront Overlay Districts.

**7:32 p.m.** The Chairman reviewed the agenda.

The Chairman thanked Cynthia Turner for her service on the Planning Board and welcomed back Ellen Simpson as a member of the Board.

**7:34 p.m.** Review of the minutes from the September 20, 2023 meeting.

There were no comments from the Board members on the September minutes.

**Motion to approve the minutes of the September 20, 2023 meeting.**

**Motion:** Karen Olson

**Second:** Joseph Heider

**Vote:** 4 (Yes- Olson, Heider, Pfaff, Crowley) – 0 (no), 1 (abstain- Simpson)

**7: 34 p.m. Gregory Fisher for NBroadway LLC and 603 North Broadway LLC, County Map 60.10-01-08 and 60.10-01-10.** Continuation from July 26, 2023. Application for minor subdivision approval for a merger between the two adjacent lots. R-30 Zoning District and Hudson Riverfront Overlay District

Applicant Representative: Dave MacCartney, Esq., counsel for the applicant.

The public hearing on this application was opened at the Board's July 26, 2023 meeting.

Mr. MacCartney explained the procedural history of the application. He explained that following the July meeting he reviewed the issue of lot coverage with Zoning Inspector Letson and it was determined that no variance for the lot coverage was needed. The lot coverage was addressed by a note in the bulk table. Two variances are required in connection with this application - the first for the deficient front yard setback to the existing cabana and the other for lot width as discussed at the July meeting. Both variances were granted by the Zoning Board of Appeals at its November meeting.

The Chairman read the Village Engineer's memorandum dated November 15, 2023 into the record as follows:

#### Information Reviewed

Minor Subdivision Plat last revised 11/9/23.

Site Plan last revised 2-16-12 (submitted for reference).

Supplemental Narrative Summary dated 10/27/23.

#### State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617, the project is an Unlisted action for which the Board adopted a determination of non-significance on July 26, 2023.

#### Zoning

1. The Zoning LL requires lot area reduction for land subject to flooding, the lot area has been recalculated.
2. Street frontage and lot coverage entries are now marked "Existing Non-Conforming" in the bulk table.
3. Zoning Inspector has determined the allowable lot coverage after the lot merger, that variance was not required.
4. Zoning Inspector determined that a front yard variance was required, which had not been identified in previous submissions for this property.
5. Variances have been granted by the ZBA and noted on the subdivision plat, the lot is now compliant.

#### Site Plan

1. The proposal is to merge the existing non-conforming Tax Lot 60.10-01-08 into Tax Lot 60.10-01-10.

2. The merger will correct the fact that 60.10-01-08 was never intended to exist as a separate lot.
3. Recommend the condition that a time be established to file the deed to effectuate the merger.

### Referrals

1. No new comments have been received from any other agencies.
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The Village Engineer indicated that in addition to the comments in his memorandum, a note should be added to the plat indicating that a portion of the septic for the neighboring property owner may be located on a portion of Tax Lot 8.

The Chairman indicated that there were a few inconsistencies between the proposed subdivision plat and the observed condition on the Property.

First, he explained that the area near the Property's Hudson River frontage does not appear to be depicted accurately on the proposed Plat. The Applicant's surveyor should review this area and accurately indicate the areas of concrete, gravel, grass and other surfaces and the locations where the surface materials change should be clearly indicated on the Plat.

Similarly, it appears that the area around the macadam driveway near the existing cabana is not accurately depicted and should be reviewed and adjusted to reflect the actual existing condition.

There was a brief discussion about the solarium on the existing residence as shown on the Plat. The Chairman asked the applicant to confirm that the coverage associated with this feature is included in the coverage calculations. Board Member Olson stated that the dimensions of the solarium should be included on the Plat.

There was a discussion about the existing accessory buildings on the Property. The Board asked that each accessory structure include a label indicating the use and that the coverage tables should include each accessory structure and its dimensions to ensure that the Plat accurately reflects the existing conditions on the Property.

The Chairman noted that there is an entrance gate on the Property. The gate posts are shown on the Plat, but the gate is not shown and should be added.

There were no other comments from the members of the Board.

The Chairman indicated that the public hearing was still opened from the July meeting and opened the application to comments from members of the public.

Fred Sinnott- 615 North Broadway (Tax Lot 60.10-1-4). The Sinnott Property (Tax Lot 4) is north of Tax Lot 8. Mr. Sinnott wanted the record to reflect that Tax Lot 8 and Tax Lot 4 (the Sinnott Property) used to be part of one larger lot and that a portion of the septic system that serves Tax Lot 4 may be located on Tax Lot 8. Mr. Sinnott wants to take all steps required to preserve his right to access and maintain the existing septic system.

Mr. MacCartney acknowledged the existing circumstances and that a portion of the septic system serving Tax Lot 4 may be on Tax Lot 8 and indicated that his client was willing to work with the Sinnotts regarding access and maintenance.

There was a discussion about how the potential location of a portion of the septic system serving Tax Lot 4 should be reflected on the subdivision plat. It was decided that a note would be added to the Plat acknowledging that the septic system serving Tax Lot 4 may be located on a portion of Tax Lot 8. The parties would privately discuss whether anything further is needed with respect to documenting rights of access or easement rights.

**Motion to Close the Public Hearing.**

**Motion:** Karen Olson

**Second:** Joseph Heider

**Vote:** 5 (Yes- Olson, Heider, Pfaff, Crowley, Simpson) – 0 (no)

**Motion to direct counsel to draft an approval resolution for consideration at the next meeting.**

**Motion:** Karen Olson

**Second:** Joseph Heider

**Vote:** 5 (Yes- Olson, Heider, Pfaff, Crowley, Simpson) – 0 (no)

**8:06 p.m. John and Allison Rohlwing, 23 West End Road, County Map 60.17-03-04.**

Application for site plan approval of replacement of front porch on property improved with an existing single-family residence located in the Residence R-10 Zoning District

Applicant Representative: Kier B. Levesque, RA, project architect.

Summary of Application: The applicants are planning to replace a covered stoop with a full width porch to provide better access to the house and a fuller sitting area in the front of the house.

The site plan shows that two variances are needed, the first for the front yard setback and the second for floor area ratio (FAR). Mr. Levesque noted that the FAR for the house is already over the maximum 25% permitted and the covered porch will increase the floor area slightly.

Mr. Levesque asked that the Board exercise its authority to waive the requirement that the applicant provide a landscape plan with its application (see Village of Upper Nyack Zoning Law Section 10.6.14.6) as the lot is fully landscaped and the improvements are minor.

The Chairman read the Village Engineer's memorandum dated November 15, 2023 into the record as follows:

Information Reviewed

Narrative and photographs by Kier Levesque dated July 31, 23.

Planning Board Application package received 9/21/23 at Village Hall.

Rockland County GML review dated 11/9/23.

Site Plan by Kier Levesque dated 7/31/23, last revised 10/9/23.

Architectural Plans by Kier Levesque, sheets A-1 to A-3 dated July 31, 23.

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.

Zoning

6. Zoning district R-10 as shown.
7. Variance required for front yard setback as shown.

Site Plan

4. The porch addition is a minor addition of impervious surface; existing roof drains are connected to drainage system.
5. If possible connect new porch roof drains to that system,

Referrals

2. RC Planning Dept.
    1. Recommends approval.
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This application was subject to referral to and review by the Rockland County Department of Planning. By letter dated November 9, 2023 the Rockland County Department of Planning recommended approval of this application with no modifications.

**Motion to open the public hearing.**

**Motion:** Karen Olson

**Second:** Joseph Heider

**Vote:** 5 (Yes- Olson, Heider, Pfaff, Crowley, Simpson) – 0 (no)

The Chairman noted that there were no members of the public in attendance at the hearing.

**Motion to refer this application to the Architectural Review Board for architectural review and to the Zoning Board of Appeals for the required Front Yard and FAR area variances.**

**Motion:** Karen Olson

**Second:** Joseph Heider

**Vote:** 5 (Yes- Olson, Heider, Pfaff, Crowley, Simpson) – 0 (no)

**Motion to adjourn the public hearing on this application to the Planning Board's January 24, 2024 meeting.**

**Motion:** Karen Olson

**Second:** Joseph Heider

**Vote:** 5 (Yes- Olson, Heider, Pfaff, Crowley, Simpson) – 0 (no)

**8:14 p.m. Eric Carter, 503 North Broadway, County Map 60.14-01-06.** Application for site plan approval for reconstruction of seawall, install a fixed timber pier, gangway and floating dock on property improved with an existing single-family residence located in the Residence R-30 District with Hudson Riverfront Overlay

Applicant Representative: Tim DeBartolomeo, P.E., Sound Engineering

Mr. DeBartolomeo explained that the applicant is proposing to repair and rebuild a sea wall damaged some time ago and to add a fixed pier and dock for the owner's boat.

There are gabion walls on the property in the vicinity of the proposed work which have collapsed or are severely damaged. The plan is to remove the gabion walls, reconstruct the shoreline with a concrete seawall, patio and related improvements, and to construct the pier and dock.

Mr. DeBartolomeo presented the existing conditions plan and the proposed site plan.

Mr. DeBartolomeo also explained how equipment would access the area of disturbance via a temporary accessway to be constructed and indicated the soil stockpile location.

The Chairman asked if the road to provide for construction access was temporary. Mr. DeBartolomeo said that the access way will be temporary, but the area of the access way will become the crest of the revetment.

Board member Heider asked if there would be slope disturbance as a part of the work on the site. Mr. DeBartolomeo explained that there would be no slope disturbance, but that stones and other materials that are existing on the site would be redistributed.

The Chairman read the Village Engineer's memorandum dated November 15, 2023 into the record as follows:

#### Information Reviewed

Cover letter by TMS Waterfront dated 9/21/23.

Project narrative by TMS Waterfront dated Sept. 2023.

Planning Board application packet dated 8/31/23.

Property survey by Atzl, Nasher & Zigler dated 11/24/21 last revised 1/27/22, 3 sheets.

Short EAF dated 2/9/22.

Copy of ACoE permit NAN-2022-00263.

Copy of NYSDEC permit 3-3920-00632/00003 & 00005.

Project Plans, 6 sheets by Sound Eng'g Assoc. LLC dated 8/1/23.

Rockland County Planning GML comment dated 11/9/23.

#### State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c2, the project is a Type 2 action No further review under SEQR is required.

## Zoning

Site plan bulk table (Sht SEA-100) is a combination of tables with different references, one (sec 19.1) is to the old code requirements. Table should be consolidated and follow the sample format in the site plan application package.

Gross and net lot area calculation should be shown.

Additional reduction for 100 year flood plain may be needed and flood plain elevation is to be added to the plan.

## Site Plan

SEA-100 should show the full extent of the proposed temporary access route and any restoration after work is complete.

Clarify the location of the 10 ft contour line between the various plan sheets, and the significance of that elevation.

Station location lines on SEA-103 should be made much more prominent.

Proposed grading should be shown on the plan sheet SEA-103.

A section at the south property line should be shown, to note meet existing grades at that location.

An erosion and sediment control plan is needed.

A previous site plan was reviewed by the Board with a prior owner; check that plan to determine if any conditions might impact this application.

## Referrals

### 3. RC Planning Dept.

#### 1. Recommends approval.

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The Board discussed Village Engineer Site Plan Comment 1. The Chairman explained that he would like to see an overall site plan that shows the proposed work, the bulk table and other relevant information on one sheet for ease of review. The Chairman acknowledged that all of the relevant information to be included on this sheet is most likely in the plan set, but it should be presented on one comprehensive plan. Mr. DeBartolomeo indicated that he understood the concern and would reconfigure the drawings or add a new drawing to provide all of the requested information on one sheet.

On the Village Engineer's comment related to the net lot area, Village Engineer Letson advised the applicant that there is a deduction from gross lot area for land within the 100 year flood plain and that the plan should be reviewed to identify the area between the mean high water mark and the 100 year flood plain and additional lot area deductions should be provided if necessary.

With regard to the Village Engineer's request that grading should be added to SEA-103, Mr. DeBartolomeo indicated that there is a lot of information already existing on this plan and he suggested that he include grading on a separate plan.

There was a discussion about the erosion control measures that would be needed as a part of the construction and how it should be depicted in the plans.

There was a discussion about the prior approvals for the lot and whether any conditions of such approvals would impact the proposed development. Village Engineer Letson agreed to review the project file and advise Mr. DeBartolomeo about any relevant conditions.

This application was subject to referral to and review by the Rockland County Department of Planning. By letter dated November 9, 2023 the Rockland County Department of Planning recommended approval of this application with no modifications.

The applicant noted that approvals have also been received from the United States Army Corps of Engineers and the New York State Department of Conservation. Copies of those approvals were included with the application submission. The Chairman asked if those approvals imposed any conditions on the proposed work that would affect the site plan. Mr. DeBartolomeo indicated that the approvals included some seasonal restrictions that the applicant would comply with.

There were no further comments from the members of the Board.

**Motion to open the public hearing.**

**Motion:** Karen Olson

**Second:** Joseph Heider

**Vote:** 5 (Yes- Olson, Heider, Pfaff, Crowley, Simpson) – 0 (no)

John Dedyo 413 North Broadway. Mr. Dedyo owns the property to the south of the property that is the subject of the application. He is concerned that there will be a change in the grade near the common boundary between the two lots. Mr. DeBartolomeo explained that the project has been designed to blend the grade toward the property line so that there will be no change in grade along the common boundary line of the property and Mr. Dedyo's property. Mr. DeBartolomeo said that there would be a smooth transition that would not affect existing drainage patterns.

Mr. Dedyo observed that the plans show the proposed pier and dock in a very specific location. He asked how much flexibility the applicant has to move those improvements from the depicted location. Mr. DeBartolomeo indicated that the applicant must build the improvements in the location shown and provide an as-built survey demonstrating that they were constructed in the correct location to the NYSDEC and Army Corps of Engineers.

There were no further comments from the members of the public.

**Motion to continue the public hearing on this application to the Planning Board's December 20, 2023 meeting.**

**Motion:** Karen Olson

**Second:** Joseph Heider

**Vote:** 5 (Yes- Olson, Heider, Pfaff, Crowley, Simpson) – 0 (no)



**8:40 p.m. Motion to close the meeting and adjourn.**

**Motion:** Karen Olson

**Second:** Joseph Heider

**Vote:** 5 (Yes- Olson, Heider, Pfaff, Crowley, Simpson) – 0 (no)