

**Village of Upper Nyack  
Planning Board Meeting  
Wednesday, June 22, 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 7:36 pm by the Chairman, William Pfaff.

**Other Board members present:** Karen Olson and Joseph Heider.

**Absent:** Cynthia Turner

**Also present:** Dennis Letson, Village Engineer; Noelle Wolfson, Esq., Consulting 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 June 15, 2022.

**7:40 pm.** Motion for approval of minutes as amended from the May 18, 2022 meeting.

**First:** Karen Olson

**Second:** Joseph Heider

**Vote:** 3-0, 1 absent. **APPROVED.**

**7:40 pm.** Lisa Larsen-Kelley and Thomas Kelley, 508 North Midland Avenue, County Map No. 60.09-02-58.

*Continuation from May 18, 2022.* Application for site plan approval for a one-story addition to include expansion of an existing bedroom and new bathroom on a property improved with an existing single-family residence located in the Residence R-20 District.

**Represented by Mr. Thomas Kelley, the homeowner.**

The comments of the Village Engineer, Dennis Letson, were discussed.

**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**

1. Zoning
  - a. The proposed work is compliant with the 2022 zoning.
2. No additional comments on this application.

Village Consulting Attorney, Noelle Wolfson, Esq., noted that Kier Levesque needs to update the note on the plan related to site plan expiration to reflect 2022 zoning law requirements. Mr. Levesque agreed.

**Motion to close the public hearing, previously held open.**

**First: Karen Olson**

**Second: Joseph Heider**

**Vote: 3-0, 1 absent. APPROVED.**

**Motion to approve the site plan titled *Kelley Addition*, prepared by Kier Levesque, RA, dated 04/11/2022, last revised 5/6/22, 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 comply with the conditions and requirements set forth in the letter from the Architectural Review Board to the Planning Board submitted on this application (ARB Public Hearing Date 6.6.22), which requires compliance with the architectural plans and finish schedule referenced in such letter.
3. Prior to the issuance of a Certificate of Occupancy the Applicant shall provide 2 copies of: (1) An as-built survey including topographical information signed and sealed by a licensed professional.
4. 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."
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 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.
6. Except as otherwise provided in Village of Upper Nyack Zoning Law Section 10.4.1, this approval shall expire if it is not signed by the Planning Board Chairman within 90 days of the date hereof, if a building permit for the work proposed herein is not issued within 3 years of the date hereof, or if a Certificate of Occupancy or Certificate of Compliance has not been issued within 2 years of the date that the building permit is issued. **The note about the site plan expiration on the site plan shall be revised to conform to this condition.**

**First: Joseph Heider**

**Second: Karen Olson**

**Vote: 3-0, 1 absent. APPROVED.**

**7:47 pm. 647 North Broadway LLC, 647 North Broadway, County Map No. 60.06-01-05.2.**

Application for site plan approval for construction of proposed single-family residence with free-standing garage, site grading and landscaping on a vacant lot located in the Residence R-40 District.

**Represented by Jay Greenwell, PLS, Tom Ryback, RA and Greg Hasaj, Director of Design.**

Jay Greenwell stated that the original plan was to join #645 and #649 with #647 North Broadway with landscaping; but that would have required a use variance because the applicant was proposing a fountain on 647 North Broadway, which would have been an accessory use with no principal use. The application for the coordinated plan was withdrawn. Accordingly, at this time the applicant is seeking approvals only for 647 North Broadway, to build a house and the related improvements, including a fountain. The idea was to work with steep slopes in the design of the site improvements.

The comments of Rockland County Planning letter regarding GML Review dated June 17, 2022, which recommended denial of the application, were discussed.

Jay Greenwell stated that this property was reviewed already and Rockland County Planning didn't have these comments. He further stated that they have these comments now because of the zoning change. He continued that they are only disturbing 7000 square feet of the steep slope. He explained that the only way to develop this property is to do so where they selected to limit the disturbance. The applicant drastically reduced the size of the fountain and brought it closer to North Broadway. He stated that after completion, this project will have stabilizing effects and be beneficial versus letting drainage continue to erode the slopes on the property.

There was a discussion about the procedural implications of Rockland County Planning's letter.

The comments of the Village Engineer, Dennis Letson, were discussed.

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c11 and 617.5c12, the project is a Type 2 action. No further review under SEQR is required.

Site Plan

1. Zoning

- a. Add "Hudson River Overlay" to the zone designation
- b. Variances for slope disturbance required as shown on the bulk table.

2. Notes section:

- c. 1 – Lot number is 5.2.
  - d. 4 – Indicate datum.
  - e. 6 – Indicate L and M of Section 239.
  - f. 10 – Indicate Builder and Applicant.
  - g. 13, 15 – Complete as application progresses.
3. Garage should be relabeled as Carport and reference TMR sheet A-3.
  4. Wall note should reference TMR sheet A-3. That sheet should add enlarged detail of the fencing portion of the construction.
  5. As the project progresses a landscape plan should be provided for the proposed green roof and overall site.
  6. The datum for the FIRM is NAVD-1988 while the map datum is NGVD-29, please indicate the elevation conversion for the flood elevation of 8 shown on the plan.
  7. Verify the location of the existing sewer line in N. Broadway, available GIS data indicates it is located in the ROW.
  8. A road opening permit will be required for the installation of the gravity spur if it does not already exist.
  9. Infiltration tests will be required for the proposed drywell installations. Several infiltration tests in the Village have failed, consider alternate methods.
  10. Drywells should have overflows, if pipe, please add to the plan, if grate, please indicate.
  11. Proposed electric easement to be filed in the RC Clerk Office and filing information provided to the Board Clerk prior to endorsement of the site plan.
  12. TMR drawing shows elev 27.5 at first floor, please coordinate.
  13. Additional details, i.e. pervious pavers, walkway construction, walkways and steps, retaining walls etc. will be required as the project progresses.
  14. Correct leader line for the Enviro-One pump location.
  15. Check Enviro-One manufacturers literature for maximum length of force main between cleanout points and add to plan.
  16. A portion of the east building envelope appears to be missing, please complete.
  17. Hydrologic and hydraulic analysis will be needed for the development.
  18. Stormwater Maintenance Agreement will be required for the site.
  19. RC Planning comment
    - a. The County recommends disapproval of the project based on the slope disturbance proposed.
    - b. It was not the Village's intention in the Zoning Local Law to sterilize property by the implementation of slope restrictions, but to make these features prominent in the development of properties.
    - c. This parcel, as shown on the site plan, is uniquely shaped and contains 2 building envelopes.
    - d. It appears Mr. Greenwell has located the proposed structures within areas of lesser slopes, the majority of slope disturbance is for surrounding grading.
    - e. That noted, perhaps the proposed grading could be tightened up to reduce the slope disturbance; I suggest this be investigated.
    - f. Also note that the location of structures is further limited by good practice, as the FEMA ABFE for this site are elev. 12 (100-yr) and elev. 17 (500-yr).
    - g. I suggest that condition 1 of the RC Planning comment may be over-ridden by the Board.
  20. Additional elevation views of the retaining walls should be provided.
  21. Top and bottom of elevations of retaining walls should be added to the site plans.

Board discussion:

Chairman William Pfaff asked how these areas of disturbance could be reduced. There was a discussion about the proposed grading. Jay Greenwell agreed to evaluate whether slopes disturbance could be further limited.

Member Karen Olson had concern about emergency vehicles accessing the property since there is no vehicular access to the proposed house from North Broadway.

The applicant agreed to evaluate the means of emergency access to the proposed residence.

Village Consulting Attorney, Noelle Wolfson, Esq., suggested that the applicant could consider an emergency access easement over the Property located at 649 North Broadway.

Member Joseph Heider suggested that the applicant come back with a landscape plan and spell out in detail how the slopes would be improved and demonstrate that the property is actually being improved.

**Motion to open the public hearing.**

**First: Karen Olson**

**Second: Joseph Heider**

**Vote: 3-0, 1 absent. APPROVED.**

Public comments:

The neighbor, Walter Lee, Lee Construction, at 105 Larchdale Avenue complained about the duration of the ongoing construction at 645 North Broadway. He continued that there is noise at all hours.

Tom Ryback addressed the status of construction at 645 North Broadway.

Chairman William Pfaff stated that there are working hours and if there is a complaint about noise and/or ongoing construction, the complaint should be made to the code enforcement official.

**Motion to continue the public hearing to the July 20, 2022 Planning Board Meeting.**

**First: Karen Olson**

**Second: Joseph Heider**

**Vote: 3-0, 1 absent. APPROVED.**

**8:48 pm. Soraya Scroggins and Adam Budgor, 11 Tompkins Court, County Map No. 60.14-01-12.7.**

Application for site plan approval for renovations including: complete replacement of the east façade, replace the existing pool and landscaping on a property improved with an existing single-family residence located in the Residence R-30 District.

**Represented by the homeowners and their representatives:**

Chris Coy, Barnes Coy Architects

Kenneth DeGennaro, P.E., Booker Engineering

Jay Greenwell, PLS  
Donald Brenner, Esq.

The homeowner, Soroya Scroggins, introduced herself and provided background information related to the proposed project. She stated that the plan is to improve the property in four ways: improve aesthetics, improve the environment and safety conditions, unify the landscape and limit impervious coverage.

The homeowner, Adam Budgor, added that they plan to limit view disturbances, add elevation to the garage, and change an abundance of non-permeable hardscape to permeable pavers and similar materials. He further explained that they wish to add a staircase on the south side of the home, add drainage to the sides, add more windows to the back and add a basement under the pool. He further stated that this will all stay within the current footprint.

Discussion of Rockland County Planning GML Review letter dated June 15, 2022.

Ken DeGennaro discussed the site plan in detail and explained the following:

1. The driveway will be a different shape and they will install brick pavers which are permeable.
2. They are adding terraced retaining walls.
3. There will be a basement under the patio of the pool.
4. Regarding the steep slopes, there is 100% disturbance which is a result of the building there now. They wish to capture as much runoff as possible with rain gardens proposed and create terraces that will help with stormwater runoff.

Chairman William Pfaff expressed that the applicants will need variances for the steep slopes disturbance.

The architects discussed the proposed building architecture and the desire to capture the views of the Hudson River and how that influenced the design.

The landscape architect presented the proposed landscape plan and explained that they wish to revitalize the site and mitigate runoff through a series of rain gardens that will collect the stormwater runoff before it gets to the Hudson River with river rocks and border matrixes. The retaining walls would be covered in ivy. They will replace trees which deer have eaten from about 4-5 feet down.

Chairman William Pfaff said that when they met on a conceptual basis, retaining walls weren't part of the plan.

Dennis Letson, Village Engineer, said that there was some discussion about potential methods to stabilize the steep slopes.

Mr. Letson recommended that the board override RCP comment #7.

The Town of Clarkstown in its GML Review letter dated June 15, 2022 recommended that this is a matter for local determination.

The comments of the Village Engineer were read into the record:

### State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c11 and 617.5c12, the project is a Type 2 action. No further review under SEQR is required.

### Site Plan

1. Zoning
  - a. Add "Hudson River Overlay" to the zoning designation in the bulk table.
  - b. Bulk table note 4 – The Board attorney should provide guidance on the inclusion of building coverage below the pool area.
2. Notes #1 – change "Town" to "Village".
3. Please explain the need for the trench drain in the pervious driveway.
4. Infiltration tests will be required to verify infiltration rates. Several recent tests have failed, pervious driveway may require underdrain with perforated pipe length designed to limit outflow.
5. Provide documentation from HOA that they do not object to the generator or other proposed construction located in the HOA easement.
6. Label the rain garden on the east side of the site.
7. Please clarify "Overflow Weir" notation at the northeast corner of the retaining wall.
8. Please add the tree list to the demolition plan and change the symbol for tree to be removed to allow better visibility of the size and species.
9. Grading plan at the south side stairs seems to show two different sets of stairs, please clarify.
10. Add top and bottom of wall elevations at this stair.
11. The FEMA ABFE for this site are elev. 12 (100-yr) and elev. 17 (500-yr). Applicant may wish to revisit some of the proposed elevations in light of these BFE's.
12. Clarify what area is being captured by the eastern rain garden.
13. The erosion and sediment control plan will require sequencing additions.
14. RC Planning comment
  - a. The County recommends disapproval of the project based on the slope disturbance proposed.
  - b. It was not the Village's intention in the Zoning Local Law to sterilize property by the implementation of slope restrictions, but to make these features prominent in the development of properties.
  - c. The addition of retaining walls and terracing will also prevent further or future erosion of the slopes that are being modified or reduced.
  - d. SWPPP is undergoing detailed review, any additional comments will be forwarded to Mr. DeGennaro.
15. A Stormwater Maintenance Agreement will be required for the site.

Mr. Letson rescinded #14A and re-named “b” to “a”, “c” to “b”, #14d becomes #15 and #15 becomes #16.

There was a discussion about the Zoning Law’s definitions of development coverage and building coverage and it was ultimately determined that the area under the pool and the connection from such area to the balance of the living area must be included in building coverage.

There was also a discussion about how the floor area ratio of the proposed house should be calculated.

The Village Engineer suggested that the applicant consider increasing the elevations in closest proximity to the Hudson River to meet or exceed FEMA’s Advisory Base Flood Elevations as a means to try to avoid flooding in the portion of the building under the proposed pool in the event of a significant storm, and there was a discussion about same.

Motion to open the public hearing.

**First: Karen Olson**

**Second: Joseph Heider**

**Vote: 3-0, 1 absent. APPROVED.**

No comments from the public.

There was a discussion about whether the plan was in sufficient form for referral to the Zoning Board of Appeals so that the variances for slopes disturbance, building coverage, development coverage and floor area ratio could be applied for, and the Architectural Review Board for review of the proposed building architecture.

With regard to the variance, it was noted that the plan would have to be revised to accurately reflect the building coverage and the Floor Area Ratio, and the extend of the variances needed for those aspects of the project would have to be reviewed before a submission to the Zoning Board of Appeals could be made.

The board deemed that it was not necessary to re-submit to Rockland County Planning since no significant change to the plan is proposed.

Motion to continue the public hearing to the July 20, 2022 Planning Board meeting.

**First: Karen Olson**

**Second: Joseph Heider**

**Vote: 3-0, 1 absent. APPROVED.**

The Planning Board referred the application to the Architectural Review Board and Zoning Board of Appeals.

Other business:

None.



Motion to adjourn the meeting.

**First: Karen Olson**

**Second: Joseph Heider**

**Vote: 3-0, 1 absent. APPROVED.**

The meeting was adjourned at 10:32 pm.