

**Village of Upper Nyack
Planning Board Meeting
Wednesday, October 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 7:32 pm by the Chairman, William Pfaff.

Other Board members present: Karen Olson, Joseph Heider and Zara Crowley.

Absent: Cynthia Turner

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

7:32 pm. The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on October 12, 2022.

7:34 pm. Motion for approval of minutes, as amended, from the September 14, 2022 meeting.

First: Joseph Heider

Second: Zara Crowley

Vote: 3-0, APPROVED, 1 absent, 1 abstention (Karen Olson not present at September meeting)

7:34 pm. Stuart and Jennifer Chaitin, 617 North Broadway, County Map No. 60.10-01-09.

(ADJOURNMENT REQUESTED) *Continuation from July 20, 2022.* 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.

Jay Greenwell, appearing on another matter, discussed with the Board that they are waiting for information from the engineer about revisions to plan for offsite improvements.

Discussion: Chairman Pfaff wants to make sure there is a clear legal agreement with the neighbors.

Motion to continue public hearing to December 21st meeting. Submission by December 1 for technical review.

First: Karen Olson

Second: Joseph Heider

Vote: 4-0, APPROVED, 1 absent

7:41pm: 647 North Broadway LLC, 647 North Broadway, County Map No. 60.06-01-05.2.

Continuation from July 20, 2022. Application for site plan approval for construction of proposed single-family residence with free-standing car port, site grading and landscaping on a vacant lot located in the Residence R-40 District.

Represented by Jay Greenwell, Greg Hasaj and Tom Ryback.

Summary of procedural history since July 20th Planning Board meeting.

- Revisions based on Zoning Board of Appeals input.
- Approval by Architectural Review Board.

Review of Village Engineer memorandum dated October 19, 2022, below:

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.

Zoning

1. The site plan has been extensively revised to address the Board's comments regarding the extent of slope disturbance.
2. Variances for slope disturbance were granted by the ZBA on 10/11/22.
 - a. 13.2% of slopes 40%.
 - b. 40.6% of slopes 15%-24%.

Site Plan

1. Notes section:
 - a. 11, 13, 15 – Complete as application progresses.
 - b. 19 – “percolation” should be “infiltration”.
3. Provide a landscape plan for the proposed green roof and overall site.
4. A road opening permit will be required for the installation of the gravity spur if it does not already exist.
5. 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.
6. Additional details, i.e. pervious pavers, walkway construction, walkways and steps, retaining walls, sanitary sewer, emergency access etc. are now required.
7. Detailed erosion and sediment control plan needed (sheet 3 in the drawing list not included in this package).
8. Please add the emergency access from the existing driveway to the proposed structure to the plans, including any modifications needed on #649 to allow egress movements.
9. Provide emergency vehicle movement diagrams to insure proper access and turning movements can be accommodated over the proposed easement.
10. Hydrologic and hydraulic analysis will be needed for the development.
11. Stormwater Maintenance Agreement will be required for the site.
12. Top and bottom of elevations of retaining walls should be added to the site plans.
13. Show building height dimension on the architectural elevations. Architect should check Section 4.5.7 regarding projections above the roof.
14. The “3rd FF” should be relabeled “roof”.
15. Note that the building renderings are received Apr. 29, 2022 and may no longer represent the correct visual appearance of the proposed building; the Applicant may wish to comment on any differences. The ARB has provided a recommendation which lists the drawings they reviewed.
 - Discussion of cut and fill
 - Discussion of height variance

Review of Architectural Review Board recommendation letter.

Review of Nyack Joint Fire District comments (comment circulation)

Tom Ryback described his discussion with ex-Fire Chief, Frank Jewett, which occurred on the Property. To summarize:

- The proposed residence has some helpful design features such as:
 - o all of the bedrooms will have outdoor access via doors
 - o the building will be sprinklered and have a fire alarm system
 - o The structure is steel and concrete
- There are also several challenges presented by the design including:
 - o The distance of the nearest hydrant to the proposed home (+/-500 ft)
 - o The driveway width and its ability to accommodate responding apparatus
- Some suggestions the applicant is considering include:
 - o Adding a hydrant on the property
 - o Creating a turnaround on the adjacent driveway
 - o Widen first portion of pervious paver walkway

Member Karen Olson comments: Distance is 580 feet from the hydrant; each length of hose is 100 feet- once the hose was charged, no other vehicle can get down the driveway (ambulance concern). Fire district would want a turn around. Asked about what the source of sprinkler water is. Tom Ryback said he would have to check code. Karen commented that they would have to look into the water pressure in the line.

Dennis Letson commented that the Plan should show driveway material. He also suggested they create a turnaround on the 649 N. Broadway driveway. He doesn't have an issue with having the drywell in the easement area, it can support the truck. He said that the question is what kind of equipment would the fire department bring to a fire in the structure. The Board recommended that the applicant follow up with the Fire Chief to discuss, among other things, what type of apparatus the Fire Department would bring to the site in the event of a fire and other considerations relative to design. Jay Greenwell will set meeting with Chief. Dennis will attend.

Discussion about whether a variance will be needed for roof railing.

There was a discussion of adjourning the application to a future meeting. Prior to the next meeting the applicant should:

1. Have a landscape plan prepared.
2. Provide information sufficient to address the Village Engineer's comments.
3. Arrange a follow-up meeting with the Fire Chief.

Motion to Continue public hearing to December 21st meeting.

Motion: Karen Olson

Second: Joseph Heider

Vote: 4-0, 1 absent

8:38pm: Vallex Herard, 514 N. Broadway, County Map No. 60.13-03-14. (ADJOURNMENT REQUESTED)

Continuation from September 14, 2022. Application for site plan approval for interior and exterior renovations including kitchen, primary bedroom and bathroom renovations; new stairs, windows, dormer and siding; new deck, fencing and pergola on property improved with an existing single-family residence located in the Residence R-20 District.

Motion to adjourn to November 16th meeting.

First: Karen Olson

Second: Joseph Heider

Vote: 4-0, APPROVED, 1 absent

8:38pm: Jason Wong and Hannah Zeitlin-Wong, 300 N. Midland Avenue, County Map No. 60.17-01-23.

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

Applicant represented by Karl Ackerman, Architect.

Mr. Ackerman explained that the existing deck is in slight disrepair and they would like to replace it and re-orient stairs in order to access the backyard.

Review of Village Engineer memorandum dated October 19, 2022, below:

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. This parcel was granted side yard variances on Oct. 5, 1992 for side yard setbacks of 15 ft. and 12 ft. on the north and south sides respectively, the house conforms to those variances.
 - b. The deck was not indicated in the approval minutes, but was shown on the plans and received a building permit and C.O.
 - c. The current request enlarges the deck and requires additional variance for increase in existing non-conforming setbacks, 15.17 ft. proposed vs. 17.33 ft. existing north side and 22.82 ft. proposed vs. 24.75 ft. existing south side.'
2. The site plan portion of the drawing is small and difficult to read. Perhaps the drawing can be reconfigured to enlarge the site plan.
 3. A vicinity map is needed on the plans.
 4. As the application is for the replacement of an existing deck, I believe the Board may waive submittal requirements for information not shown on these plans.
 5. Complete meets and bounds should be shown for the lot.
 6. A note should be added that all excavated material will be removed from the site.
 7. Erosion control measures (silt fence) and construction access location should be added to the plan.
 8. The word "facing" should be removed from the architectural elevation labels.

The Village Engineer withdrew comment #8.

Review of Rockland County Planning GML review letter dated October 13, 2022, which recommended approval of the application.

Discussion of clarify existing versus proposed variances. Chairman Pfaff commented that variances are minimal; but variances will be necessary.

Motion to open public hearing.

First: Karen Olson

Second: Zara Crowley

Vote: 4-0, APPROVED, 1 absent

No public comments.

Motion to close the public hearing.

First: Karen Olson

Second: Joseph Heider

Vote: 4-0, APPROVED, 1 absent

Motion to approve the site plan titled *Existing Wood Deck Variance / CO for Mr. and Mrs. Wong*, prepared by Karl Ackermann, AIA, dated 7.29.22/2022, last revised 10.20.22, 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 address to the reasonable satisfaction of the Village Engineer the comments raised in his report dated October 19, 2022 and which are specifically set forth herein as conditions of approval. #1c, #2-#7.
3. Comments from other Agencies commenting on this plan are herein incorporated as conditions of approval. Rockland County Planning letter dated October 13, 2022.
4. This approval is subject to the applicant seeking and obtaining sideyard setback variances (one side and combined side yard) from the Zoning Board of Appeals.
5. Prior to the issuance of a Certificate of Occupancy the Applicant shall provide 2 copies of an as-built survey including topographical information 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. 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 3 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: Karen Olson

Second: Joseph Heider

Vote: 4-0, APPROVED, 1 absent

8:55pm: 536 N. Highland LLC, 536 N. Highland Avenue, County Map No. 59.12-02-01.

Application for site plan approval to allow the parking of commercial vehicles as an accessory use and for site plan approval and a special permit to allow overnight parking of commercial vehicles on property improved with restaurant and office uses in the Office Business (OB) District.

Applicant represented by Kier Levesque, RA.

Mr. Levesque gave an overview of the application. Site plan approval was previously granted for the Property in May 2022 to convert the second-floor banquet space in the existing restaurant building into offices and for the related accessory parking of commercial vehicles for the office use.

Chairman William Pfaff asked for clarification that there are two permitted uses operating on the site and that each has parking associated with it.

Mr. Levesque confirmed and advised that the HVAC company office user will continue to occupy the office, storage area and parking on the Property and a new catering company with tasting facility will operate in the existing restaurant building. Dennis Letson confirmed that such use would fall under the definition of "restaurant" and is a permitted use in the OB District.

There was a general discussion about the legal standards applicable to applications for the parking of commercial vehicles on lots that are improved with commercial uses, particularly Zoning Law section 6.1.3.7.

There was a discussion about the parking of commercial vehicles accessory to the proposed restaurant use. The Board members asked about the size and appearance of the vehicles and where they would be parked on the site.

Mr. Levesque explained that the trucks are box trucks, which will likely occupy more than one parking space.

The Board members asked Mr. Levesque to provide photographs of the trucks and to number the parking spaces on the site plan so that the location of where they will be parked is clearly indicated.

There was a discussion about the request for a special use permit to park commercial vehicles that are not accessory to the uses on the property on the property overnight. With respect to that request the Board members indicated that they would need additional information such as the type, number, and location of the trucks. The applicant was also advised that a variance would likely be required before this use can occur on the property since the special use permit is intended to allow non-accessory parking in surplus parking spaces and the site does not have any surplus parking space (in fact, it is benefitted by a parking variance).

Review of Village Engineer memorandum dated October 19, 2022, below:

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c18, “reuse of a residential or commercial structure, ...” the project is a Type 2 action. No further review under SEQR is required.

Site Plan

1.Zoning

- a.The Zoning Inspector has reviewed the proposed restaurant/catering use and determined it is an allowable use by right in this district; no use variance is required.
- b.There may be a conflict between sections 6.1.3.7.1 and 6.1.3.7.2, as evidenced by the County comment
- c. regarding the location of the parking. It appears the parking does comply with section 6.1.3.7.1.
- d. The parking referred to in County Planning comment 6 are accessory to the permitted commercial office use and do not require a special permit under section 6.1.3.7.1.
- e. The non-accessory parking requirement 6.1.3.7.2(b) is that “such vehicles are not parked in any Parking Space the is required in order for the Principal Use(s) on the lot to comply with the minimum number of parking spaces as set forth in this Zoning Law”. Given that the site already has a variance for required parking, would this require a new variance?
- f. Section 9.5 indicates the standards applicable to review of this application.

2.Suggest the Board revisit the previous landscaping waiver for this additional use, some screening of the commercial vehicles in this location should be provided.

3.Mr. Levesque should expand on the number of vehicles proposed for the restaurant use and the number of proposed non-accessory vehicles.

4.Mr. Levesque should request waivers of those items on the Site Plan Checklist which are shown as Not Included.

Chairman William Pfaff commented that the application is super general and it needs to be more specific for non-accessory parking.

Mr. Levesque asked if it would make more sense to make two separate applications and the Chairman agreed that it would.

On behalf of the applicant, Mr. Levesque advised that the applicant will withdraw the request for the non-accessory parking special use permit.

Review of Rockland County Planning GML review letter dated October 17, 2022.

Action items for next submission:

- Adjust spaces for accessory commercial truck parking to be located behind front building setbacks.
- Number the spaces and refer to the spaces for accessory commercial vehicle parking by number
- Provide the size of the spaces on the plan
- Provide photographs of the trucks
- Draw snow storage area
- Label last space “compact car”
- - The applicant should address the proposed landscaping on the property and any requested waivers from the landscaping requirements. The applicant should advise about what type of landscaping is viable onsite to buffer visual impact of commercial vehicle parking.

Motion to open the public hearing.

Motion: Karen Olson

Second: Joseph Heider

Vote: 4-0, APPROVED, 1 absent.

No public comment.

Motion to continue public hearing to November 16, 2022 meeting.

Motion: Karen Olson

Second: Joseph Heider

Vote: 4-0, APPROVED, 1 absent.

Other business:

-GML review of 245 N. Midland Avenue, Nyack. Re-approval of renovation of 5-story apartment building.

Motion to send a letter that this is a matter for local determination.

Motion: Karen Olson

Second: Zara Crowley

Vote: 4-0, APPROVED, 1 absent.

-11 Tompkins Court, County Map 60.14-01-12.7. Site plan approval time extension.

Motion to grant an additional 90 days for site plan to January 17, 2022.

Motion: Karen Olson

Second: Joseph Heider

Vote: 4-0, APPROVED, 1 absent.

Motion to adjourn the meeting.

Joseph Heider

Second: Karen Olson

**Vote: 4-0, APPROVED, 1
absent.**

The meeting was adjourned.

Respectfully submitted,

Janet Guerra

Board Secretary